

Document #4844

12/18/86

Document No. 4844
12/18/86

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY

Re: Ground Leases with Respect to Buildings 149 and 199 at the Charlestown Navy Yard

WHEREAS, by Resolutions dated December 3, 1986, the Authority has approved the transfer of certain interests in Constitution Office Park Associates Limited Partnership ("COPALP"), Navy Yard Parking Associates Limited Partnership ("NYPALP") and Navy Yard Parking Associates/LNRC Venture (the "Navy Yard Venture"), to Navy Yard - Biotechnical Research Associates Limited Partnership ("Biotech LP"); and

WHEREAS, the parties to the aforesaid transactions have requested certain amendments and clarifications to said Resolutions.

NOW THEREFORE, be it resolved by the Boston Redevelopment Authority:

(i) That the Authority hereby consents to the transfer of legal or beneficial ownership in the Building 149 and Building 199 Ground Leases to Biotech LP, whether by acquisition of partnership interests or stock in the partners of COPALP, NYPALP or the Navy Yard Venture, admission of Biotech LP as an additional partner or stockholder in those entities, or by transfer of the tenant's interest in each Ground Lease to Biotech LP, SUBJECT, HOWEVER, TO THE OBLIGATION OF BIOTECH LP TO PAY THE FIFTEEN PERCENT SALES AMOUNT AS PREVIOUSLY APPROVED BY THE AUTHORITY;

(ii) That the Authority hereby consents to the subleasing of space within Buildings 149 and 199 to the General Hospital Corporation substantially in accordance with the draft subleases previously submitted to the Authority, with such changes and amendments as the Director shall deem appropriate, it being understood (i) that the Authority hereby expressly approves the uses of Building 149 and 199 set forth therein (subject to compliance with all laws, ordinances and regulations applicable thereto) and (ii) that the foregoing consent shall not constitute the consent of the Authority to any sale of Buildings 149 and 199 to the General Hospital Corporation pursuant to the purchase option set forth in such subleases; and

(iii) That, in connection with all the foregoing, the Director be, and he hereby is, authorized for and on behalf of the Authority to execute and deliver such consents, estoppel certificates and other documents as may be reasonably required to carry out the purposes and intent of the foregoing resolutions, including, without limitation, estoppel certificate substantially in the form attached hereto as Exhibit A.

LIST OF EXHIBITS

- A. Estoppel Certificate
- B. Summary of lease between Biotech Limited Partnership and the General Hospital Corporation
- C. Chart of present ownership structure
- D. Chart of proposed ownership structure
- E. Board Memorandum and resolution dated December 3, 1986 authorizing transfer of limited partnership interests.

EXHIBIT A
TO RESOLUTION

BOSTON REDEVELOPMENT AUTHORITY
One City Hall Square
Boston, Massachusetts 02201

December , 1986

Constitution Office Park
Associates Limited Partnership
Navy Yard Associates/LNRC Venture
c/o The Congress Group Inc.
286 Congress Street
Boston, Massachusetts 02109

Navy Yard - Biotechnical Research
Associates Limited Partnership
c/o Raymond Cattle Company
306 Dartmouth Street
Boston, Massachusetts 02116

First National Bank of Chicago
c/o Peabody & Brown
One Boston Place
Boston, Massachusetts 02108

Bank of New England, N.A.
28 state Street, 28th Floor
Boston, Massachusetts 02108

Merrill Lynch Interfunding, Inc.
One Liberty Plaza
165 Broadway, 48th floor
New York, New York 10080

Re: Buildings 149 and 199, Charlestown Navy Yard

Gentlemen:

Reference is made to that certain Ground Lease (the "Building 149 Ground Lease"), dated as of May 23, 1985, by and between the Boston Redevelopment Authority (the "Authority"), as landlord, and Constitution Office Park Associates Limited Partnership ("COPALP"), as tenant, and to that certain Ground Lease (the "Building 199 Ground Lease"), as landlord, and Navy Yard Parking Associates/LNRC Venture (the "Venture"), as tenant. Capitalized terms used and not otherwise defined herein are used with the meanings ascribed to such terms in the Building 194 Ground Lease or the building 199 Ground Lease, as the context requires.

Constitution Office Park Associates Limited Partnership
Navy Yard Associates/LNRC Venture
Navy Yard - Biotechnical Research Associates Limited Partnership
First National Bank of Chicago
Bank of New England, N.A.
Merrill Lynch Interfunding, Inc.
December , 1986
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You have advised the Authority that the tenant's leasehold estate under the Building 194 Ground Lease is to be transferred to Navy Yard - Biotechnical Research Associates Limited Partnership, a limited partnership ("Biotech LP"), that the joint venture interest of Lincoln National Realty Corporation ("Lincoln Realty") in the Venture is to be transferred to a new Indiana corporation, Navy Yard Parking Associates Inc. ("Navy Yard Parking"), and that the stock of Navy Yard Parking and certain general and partnership interests in Navy Yard Parking Associates Limited Partnership ("NYPALP") are to be transferred to Biotech LP, and that, in connection with all of the foregoing, the holders of the tenants' estates in and to the Building 149 and Building 199 Ground Leases are entering into certain additional mortgage financings to fund the costs of acquisition of such leasehold estates and completion of development of Buildings 149 and 199, all of which transactions have been approved by resolutions of the Authority dated December 3, and December 18, 1986.

In connection with the foregoing transactions, you have requested, and the undersigned has agreed to provide, this estoppel certificate.

NOW, THEREFORE, the undersigned hereby certifies to each of you as follows:

1. Attached hereto as Exhibits A-1 and A-2 are true, correct and complete copies of Resolutions of the Authority, taken at its regularly scheduled meetings held on December 3, and December 18, 1986, which Resolutions are the only resolutions relating to the subject matter set forth therein and which Resolutions have not been amended or modified or revoked.

2. The undersigned hereby further certifies (i) that neither of the Ground Leases has been amended or modified in any respect, (ii) that each such Ground Lease remains in full force and effect, and (iii) to the knowledge of the undersigned, no uncured default exists thereunder.

3. The undersigned hereby approves Neil St. John Raymond, RCC International, Asian Oceanic, Inc., Competrol Real Estate Limited and Navy Yard Biotech, Inc. (or, in each instance, family members and trusts and affiliates controlled by such parties) as partners of Biotech LP.

4. In connection with the proposed transfers, the undersigned hereby consents to the granting of mortgage liens on the tenant's interest in the Building 149 and 199 Ground Leases,

Constitution Office Park Associates Limited Partnership
Navy Yard Associates/LNRC Venture
Navy Yard - Biotechnical Research Associates Limited Partnership
First National Bank of Chicago
Bank of New England, N.A.
Merrill Lynch Interfunding, Inc.
December , 1986
Page 3

such mortgage liens to be granted to the lenders and in the maximum principal amounts previously approved in the December 3, 1986 Resolutions of the Authority, it being understood that each such mortgagee shall, upon notice to the Authority of its mortgage, be entitled to treatment as a "first Leasehold Mortgagee" and a "Qualifying Leasehold Mortgagee," and each such mortgage shall constitute and enjoy the benefits of a "First Lien," as those terms are used in the Ground Leases.

5. The undersigned hereby confirms the right of each such leasehold mortgagee, pursuant to the provisions of Article 19, Section 19.2(b)(ii) of each Ground Lease, and any other provision of such Ground Leases to the contrary notwithstanding, to cause the Tenant to sell its interest in each Ground Lease, without violation of the transfer prohibitions of the Ground Leases, upon the occurrence of an event of default under the indebtedness secured by such leasehold mortgage.

6. The undersigned hereby confirms that, from and after completion of the transfers, Total Project Costs will begin at the new acquisition price.

7. The undersigned hereby acknowledges receipt of copies of those certain subleases, each dated as of December __, 1986, by and between Biotech LP and the Navy Yard Venture, respectively, as landlord, and the General Hospital Corporation, as tenant, relating to the subleasing of certain space within Buildings 149 and 199 by The General Hospital Corporation, and the undersigned hereby consents to the granting of each of such subleases, it being understood, however, that by such consent the undersigned shall not be deemed to have approved any sale of Building 149 or Building 199 to The General Hospital Corporation in accordance with the purchase options set forth in each of such Ground Leases.

EXECUTED under seal as of the day and year above first written.

Very truly yours,

BOSTON REDEVELOPMENT AUTHORITY

By:

Stephen Coyle
Director

LEASE SUMMARY

The General Hospital Corporation Leases
at Buildings 149 and 199; Charlestown Navy Yard

BUILDING 149

Lease Term: As to Laboratory Space, 15 years; as to Office Space, 10 years. The Lease may be extended up to approximately 20 years (i.e., an additional 5 years on the Laboratory Space and an additional 10 years on the Office Space).

Commencement Date: Upon completion of any part of the Premises.

Rent: Net Lease with escalations for operating expenses over \$700,000.00 and over \$1.99 per rentable square foot with respect to taxes.

Use: Educational and general office purposes, laboratory research, computer operations and other purposes allowed by law.

Premises: Up to 219,538 square feet of Laboratory Space; and up to 75,966 rentable square feet of Office Space, together with an expansion rate on a right of first refusal basis with respect to additional space on the fifth floor (such space to be either lab or office, or both), plus an additional 20,000 rentable square feet which Tenant can designate as Office or Laboratory Space.

Rent: For Office Space initially \$17.79 per rentable square foot, with escalations as provided in Article 3. For Laboratory Space initially \$26.03 per rentable square foot, with escalations as provided in Article 3.

Landlord Contribution: \$9.20 per rentable square foot included in the Premises.

Assignment/Subletting: 50% of profit to Tenant.

Tenant's Plans: Tenant is to prepare plans for its initial Premises by March 1, 1987.

BUILDING 199

Number of Parking
Spaces:

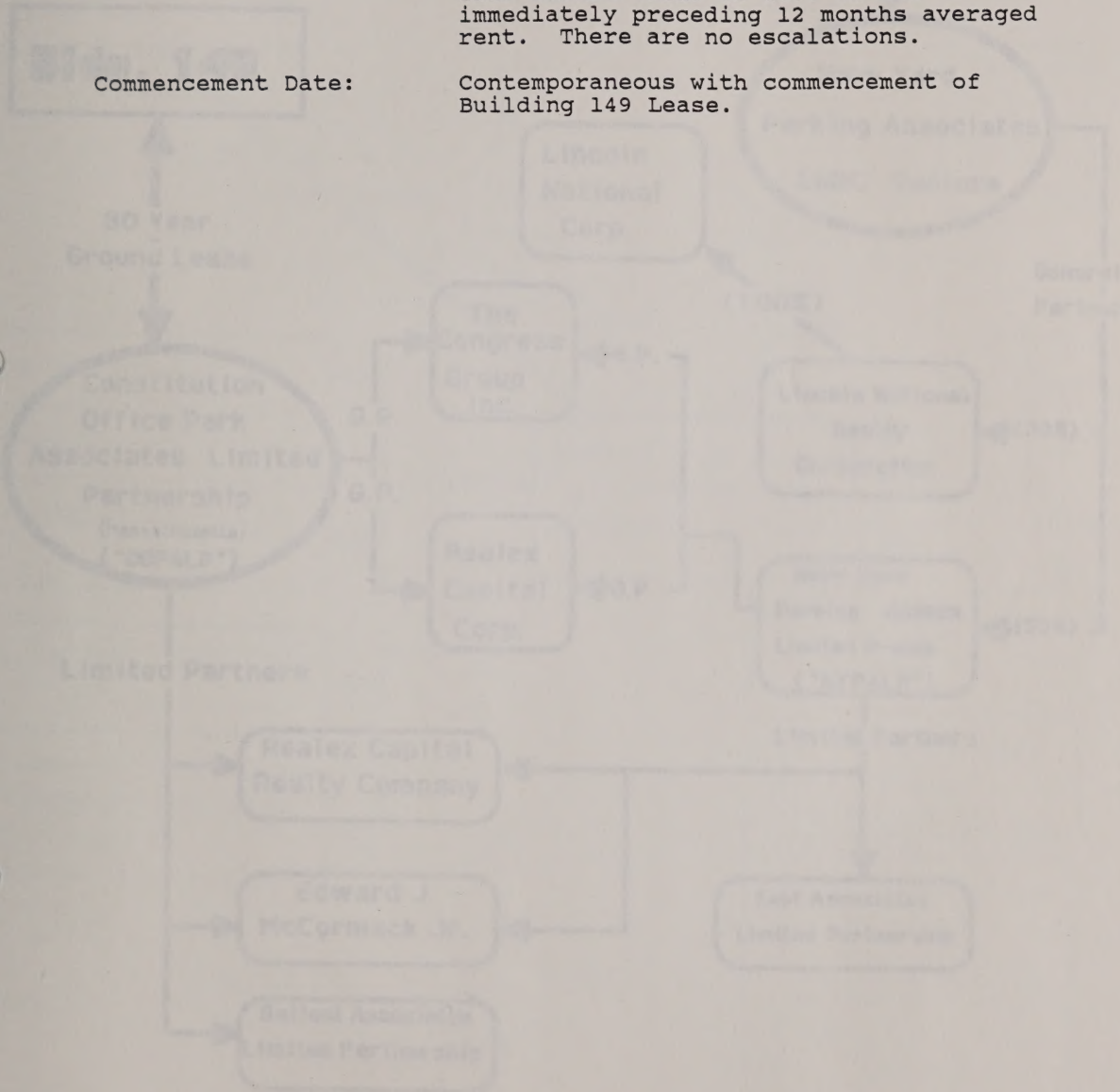
1.4 spaces per thousand rentable square
feet occupied in Building 149.

Rent:

\$65.00 per space for the first year of
the Lease and thereafter the greater of
fair market value of 105% of the
immediately preceding 12 months averaged
rent. There are no escalations.

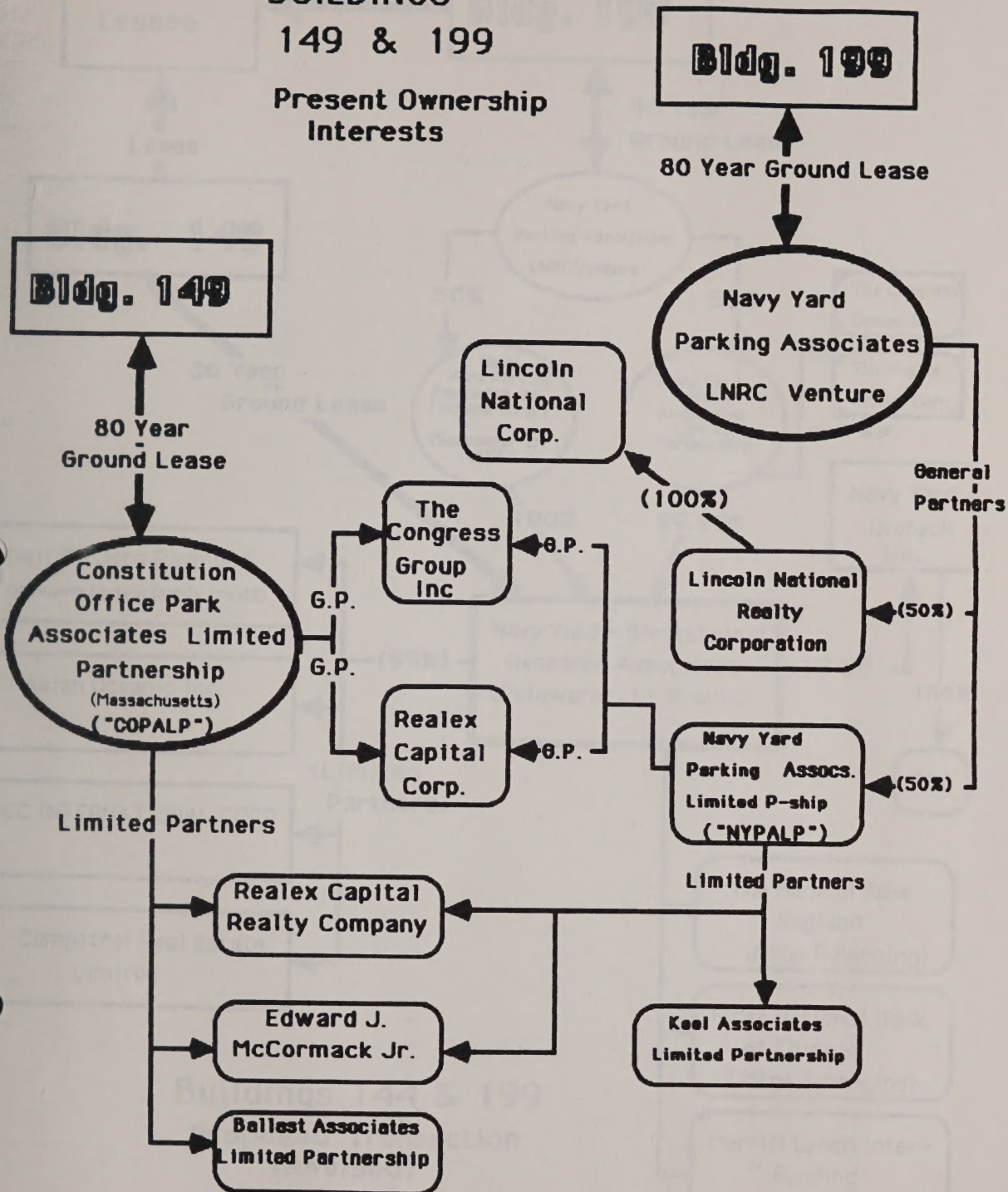
Commencement Date:

Contemporaneous with commencement of
Building 149 Lease.



BUILDINGS

149 & 199

Present Ownership
Interests

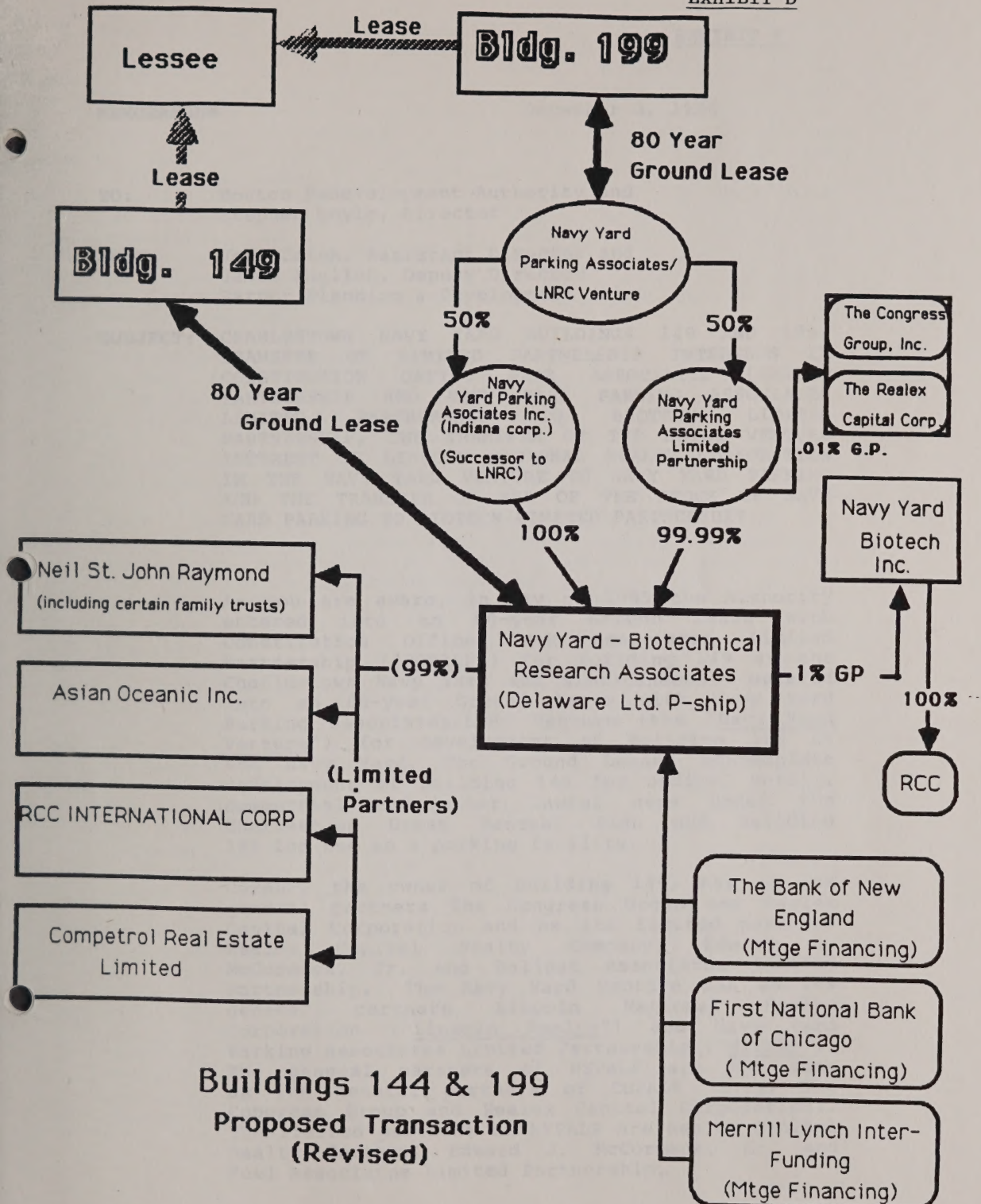


EXHIBIT E

MEMORANDUM

December 3, 1986

TO: Boston Redevelopment Authority and
Stephen Coyle, Director

FROM: John Leigh, Assistant Director and
James English, Deputy Director
Harbor Planning & Development

SUBJECT: CHARLESTOWN NAVY YARD BUILDINGS 149 AND 199;
TRANSFER OF LIMITED PARTNERSHIP INTERESTS IN
CONSTITUTION OFFICE PARK ASSOCIATES LIMITED
PARTNERSHIP AND NAVY YARD PARKING ASSOCIATES
LIMITED PARTNERSHIP TO BIOTECH LIMITED
PARTNERSHIP, THE TRANSFER OF THE JOINT VENTURE
INTEREST OF LINCOLN NATIONAL REALTY CORPORATION
IN THE NAVY YARD VENTURE TO NAVY YARD PARKING
AND THE TRANSFER OF 98% OF THE STOCK OF NAVY
YARD PARKING TO BIOTECH LIMITED PARTNERSHIP

As you are aware, in May of 1985 the Authority entered into an 80-year Ground Lease with Constitution Office Park Associates Limited Partnership ("COPALP") for Building 149 at the Charlestown Navy Yard and simultaneously entered into an 80-year Ground Lease with Navy Yard Parking Associates/LNRC Venture (the "Navy Yard Venture") for development of Building 199 at the Navy Yard. The Ground Leases contemplate development of Building 149 for office, retail, commercial and other lawful uses under the Charlestown Urban Renewal Plan and Building 199 for use as a parking facility.

COPALP, the owner of Building 149, has as its general partners The Congress Group and Realex Capital Corporation and as its limited partners Realex Capital Realty Company, Edward J. McCormack, Jr. and Ballast Associates Limited Partnership. The Navy Yard Venture has as its general partners Lincoln National Realty Corporation ("Lincoln Realty") and Navy Yard Parking Associates Limited Partnership ("NYPALP"). The general partners of NYPALP are the same as the general partners of COPALP (i.e., The Congress Group and Realex Capital Corporation). The limited partners of NYPALP are Realex Capital Realty Company, Edward J. McCormack, Jr. and Keel Associates Limited Partnership.

The Partners of COPALP, the Navy Yard Venture and NYPALP have entered into an agreement with Biotechnical Research Associates, a Massachusetts general partnership having Neil St. John Raymond and Joseph W. Bartlett as its general partners, pursuant to which Biotechnical Research Associates has agreed to purchase all of the limited partnership interests in COPALP and NYPALP. At the same time, the general partnership interest of Lincoln National Realty Corporation in the Navy Yard Venture is to be transferred to a new Massachusetts corporation, Navy Yard Parking Associates, Inc. ("Navy Yard Parking") and 98% of the stock in Navy Yard Parking is to be transferred to Biotechnical Research Associates. [The proposed transfer is outlined in chart form in the attached Exhibit A to this memorandum.]

Biotechnical Research Associates will be taking title to the partnership interests and stock through Navy Yard - Biotechnical Research Associates Limited Partnership, a Delaware limited partnership having Navy Yard Biotech, Inc., a Massachusetts corporation, as its sole general partner and Biotechnical Research Associates and RCC International, Inc. as its limited partners.

The proposed transfer, if approved, will bring to the Navy Yard a new partnership whose general partner has substantial experience in the development of real estate and who has demonstrated ability in securing financing to bring projects to successful completion.

Despite the transfer of the interests outlined above, the terms of the leases executed between the Authority and the developer will remain intact; i.e., the developer will pay the Authority \$500,000 per year in base rent for the two buildings and make an additional annual payment of 15% of net cash flow. The linkage obligation of \$1,700,000 will be maintained by the new development entity and the properties will be fully taxable under standard City of Boston tax assessment procedures. At completion, the development is expected to employ in excess of 2,000 workers, thereby increasing job opportunities, further enlivening the Navy Yard and offering support to various retail entities in other Navy Yard Properties.

In addition, the leases for these properties require that the Authority receive 15% of the proceeds of both a sale or refinance of the project. Since this transaction qualifies as a sale as defined in the lease, the Authority will receive 15% of the excess of sales price over certified project cost. It is further anticipated that the Biotech Limited Partnership will soon need to refinance this project, thus triggering an additional payment to the Authority of 15% of the excess of total refinancing over the acquisition price.

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY

Re: Ground Leases with Respect to Buildings 149 and 199
at the Charlestown Navy Yard

WHEREAS, the Boston Redevelopment Authority (the "Authority") has entered into a ground lease (the "Building 149 Ground Lease"), dated May 23, 1985, with Constitution Office Park Associates Limited Partnership, a Massachusetts limited partnership ("COPALP"); and

WHEREAS, the Authority has entered into a ground lease (the "Building 199 Ground Lease"), dated May 23, 1985, with Navy Yard Parking Associates/LNRC Venture, a Massachusetts joint venture (the "Navy Yard Venture"); and

WHEREAS, the limited partners of COPALP and the limited partners of Navy Yard Parking Associates Limited Partnership, a Massachusetts limited partnership ("NYPALP") which is a general partner of the Navy Yard Venture, are about to transfer 100% of the limited partnership interests in said partnerships to Navy Yard-Biotechnical Research Associates Limited Partnership, a Delaware limited partnership ("Biotech LP"), having, as its sole general partner, Navy Yard Biotech, Inc., and, as its sole limited partners, Biotechnical Research Associates, a Massachusetts general partnership, and RCC International Corp., a Massachusetts corporation; and

WHEREAS, the general partnership interest of Lincoln National Realty Corporation in the Navy Yard Venture is to be simultaneously transferred to Navy Yard Parking Associates, Inc. ("Navy Yard Parking"), and 98% of the capital stock of Navy Yard Parking is to be simultaneously transferred to Biotech LP; and

WHEREAS, in connection with the foregoing transactions, COPALP and the Navy Yard Ventures propose to enter into subleases of space at Buildings 149 and 199 substantially in accordance with the proposal for such subleases previously furnished to the Authority; and

WHEREAS, in connection with the foregoing transactions, certain additional mortgage funding is to be provided to COPALP and the Navy Yard Venture.

NOW THEREFORE, be it resolved by the Boston Redevelopment Authority:

1. That the transfer of limited partnership interests in COPALP and NYPALP to Biotech LP, the transfer of the joint venture interest of Lincoln National Realty Corporation in the Navy Yard Venture to Navy Yard Parking and the transfer of 98% of the stock of Navy

Yard Parking to Biotech LP be and they hereby are approved; and

3. That, pursuant to the provisions of the Building 149 Ground Lease and the Building 199 Ground Lease, the Authority hereby consents to additional mortgage financing with respect to Buildings 149 and 199 in an amount not to exceed, in the aggregate, \$130 million, such financing to be provided by: Bank of New England, Merrill Lynch Interfunding, Inc., Asian-Oceanic, Inc., Chase Manhattan Bank, N.A., Bank of Boston, First National Bank of Chicago and other institutional lenders (together with any subsidiary or affiliate of any of the foregoing); and
4. That, in connection with all the foregoing, the Director be, and he hereby is, authorized for and on behalf of the Authority to execute and deliver such consents, estoppel certificates and other documents as made be reasonably required to carry out the purposes and intent of the foregoing resolutions, incorporating the specific provision that the Authority will share in all proceeds in excess over project costs of approximately \$61,000 (less the deductible outlined in the lease). The Authority will receive an initial payment of \$1,000,000 on account of the Authority's share of net proceeds at the time of the initial closing.

Memorandum

December 18, 1986

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: JOHN R. LEIGH, ASSISTANT DIRECTOR
JAMES F. ENGLISH, DEPUTY DIRECTOR
HARBOR PLANNING AND DEVELOPMENT

SUBJECT: CHARLESTOWN NAVY YARD
BUILDINGS 149 AND 199;
APPROVAL OF TRANSFER TO NAVY YARD
BIOTECHNICAL RESEARCH ASSOCIATES LIMITED PARTNERSHIP

On December 3, 1986 the Authority approved the transfer of certain limited partnership interests of Constitution Office Park Associates Limited Partnership and Navy Yard Parking Associates Limited Partnership in Buildings 149 and 199 at the Navy Yard to Biotech Limited Partnership. Under the transfer arrangement approved on December 3, Biotech Limited Partnership was comprised of RCC International Inc., Biotechnical Research Associates and Navy Yard Biotech Inc.

In order to secure sufficient financing for this project, Biotech Limited Partnership has elected to acquire all of the current developer's beneficial ownership in the Building 149 and 199 ground leases and to amend the limited partnership agreement such that Biotech Limited Partnership is now comprised of Neil St. John Raymond, RCC International Inc., Asian Oceanic Inc., Comp petrol Real Estate Limited and Navy Yard Biotech Inc. In order to take advantage of Historic Tax Credits, which are an important portion of the financing of this project, it is necessary that this transfer take place before the end of 1986.

The transfer approved on December 3 required that the Authority receive as payment 15% of the proceeds of this sale; it is estimated that the Authority's share of the proceeds will exceed \$2,000,000. Biotech Limited Partnership has agreed to pay the Authority \$1,000,000 at the time of sale as a partial payment of the proceeds due with the remainder paid after certified financial statements are completed.

The new owners have also reached an agreement with the General Hospital Corporation whereby General Hospital Corporation will lease up to 315,000 square feet of space in the building for office and laboratory use and have first option on an additional 65,000 square feet. Under the proposed lease, General Hospital Corporation would also lease up to 532 parking spaces in Building 199 at a ratio of 1.4 parking spaces per thousand rentable square feet occupied in Building 149. When this space in Building 149 is occupied by General Hospital Corp., it is anticipated that 1500 permanent jobs will be created in the space.

Biotech will assume the linkage obligation of the current owners which totals \$2.7 million. Further, Biotech has now agreed to make an additional linkage contribution of \$1.00 per square foot (\$550,000) to establish a job training program which will be aimed at assisting Boston residents in securing jobs at the facility, with an emphasis on providing such opportunities to Charlestown residents. The developer has agreed to contribute \$50,000 at the time of the first occupancy of the building with the remainder paid over five years in \$100,000 annual installments.

It is further anticipated that the Biotech Limited Partnership will soon need to refinance this project, at an amount up to \$130 million, thus triggering an additional payment to the Authority of 15% of the excess of total refinancing over the acquisition price.

Since the ownership transfer and subsequent leasing to the General Hospital Corporation will offer significant benefits to the Authority and particularly to the Navy Yard, approval of these actions is hereby recommended.

An appropriate resolution is attached.

OFFICE AND LABORATORY SPACE LEASE
FOR BUILDING 149

Charlestown Navy Yard
Charlestown, Massachusetts

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THIS INSTRUMENT IS AN INDENTURE OF LEASE ("Lease") in which the Landlord and the Tenant are the parties hereinafter named, and which relates to general office and laboratory space in the building known as Building 149 (the "Building"), as shown on Exhibit "A" annexed hereto. The Building is located on certain parcels of land (the "Lot") situated on a portion of the premises known as the Charlestown Navy Yard which Lot is more particularly described in Exhibit "B" annexed hereto.

The parties to this instrument hereby agree with each other as follows:

ARTICLE 1

BASIC LEASE PROVISIONS

1.1 INTRODUCTION. As further supplemented in the balance of this instrument and its Exhibits, the following sets forth the basic terms of this Lease and, where appropriate, constitutes definitions of certain terms used in this Lease.

1.2 BASIC DATA.

Date of this Lease: December __, 1986

Landlord: Constitution Office Park Associates
Limited Partnership, a Massachusetts
limited partnership. | ?

Present Mailing Address of Landlord: c/o Immobiliare New England
Shipyard Quarters
Charlestown, MA 02128
Attention: _____

Tenant: The General Hospital
Corporation.

Present Mailing Address of Tenant: One Fruit Street
Boston, MA 02114
Attn: Lawrence E. Martin,
Associate General Director

Initial Term: With respect to the "Office
Space" (as defined in this
Section 1.2 under the
definition of "Leased
Premises"), ten (10) years
commencing on the Commencement
Date (as hereinafter defined in
this Section 1.2) and expiring
at the close of the day

preceeding the tenth anniversary thereof (the "Initial Office Space Term") and with respect to the "Laboratory Space" (as defined in this Section 1.2 under the definition of "Leased Premises"), fifteen (15) years commencing on the Commencement Date and expiring at the close of the day preceeding the fifteenth anniversary thereof (the "Initial Laboratory Space Term"), except that if the Commencement Date shall be other than the first day of a calendar month, the expiration of the Initial Term with respect to both the Office Space and the Laboratory Space shall be at the close of the last day of the calendar month in which such applicable anniversary shall fall.

Lease Term or Term:

The Initial Term and, if properly exercised pursuant to

Section 2.5, the First Office Space Extension Term, the Second Office Space Extension Term and the Laboratory Space Extension Term.

Fixed Rent:

The Fixed Rent for the Office Space plus the Fixed Rent for the Laboratory Space, as provided in Article 3.

Commencement Date:

As determined pursuant to Section 6.1. The Commencement Date (and the "Initial Completion Date" and any "Subsequent Completion Date" and the portion of the Premises relating to the Initial Completion Date and each Subsequent Completion Date, as such terms are defined in Section 6.2(c)) shall be memorialized by supplemental agreement(s) signed by the parties hereto, but the failure to do so shall not affect any

such Commencement Date, Initial Completion Date or Subsequent Completion Date.

Use:

The Office Space shall be used for educational and general offices purposes and the Laboratory Space shall be used for the computer operations, research, laboratory, document and animal storage and supply needs of Tenant, all only to the extent that such use and activities are permitted by applicable zoning and building codes, ordinances and regulations and do not violate any other law, rule, ordinance or regulation of any governmental authority having jurisdiction over the Building. In addition, Tenant may use the Office Space or the Laboratory Space for any other lawful purposes, provided such use (i) shall be compatible and in keeping with standards for the

Building, (ii) shall not be likely to increase Operating Expenses beyond that which would be incurred for standard uses of space by other tenants of the Building, increase the burden on building elevators, or violate or be likely to violate any provisions of this Lease, and (iii) shall not be a use which Landlord has given, or contemplates giving, to another tenant as an exclusive use in the Building.

Leasable Premises:

The combination of the Laboratory Space (if not deleted from the Leasable Premises pursuant to Section 4.1) together with the Office Space, as each is herein defined. The Laboratory Space is comprised of and defined to be the spaces identified in clauses (i) through (iv) hereafter: (i) the entirety of floors six and eight of the

Building, together with (ii) that portion of the seventh floor of the Building containing approximately 54,356 rentable square feet as measured in accordance with standards of the New York Building Owners and Managers Association (the "Method") and being identified on Exhibit E as Seventh Floor Laboratory Space (the "Terminable Seventh Floor Laboratory Space") and (iii) that portion of the fifth floor of the Building, containing approximately 9,360 rentable square feet as measured in accordance with the Method and being identified on Exhibit E as Fifth Floor Laboratory Space (Mechanical) (the "Fifth Floor Mechanical Space"), and (iv) that portion of the first floor of the Building containing approximately 5,000 rentable square feet as measured in

accordance with the Method and being identified on Exhibit E as First Floor Laboratory Space (Mechanical); but excluding from the spaces identified in clauses (i) through (iv) that portion (if any) of the "Excluded Space" comprised of the "Terminable Laboratory Space," as such terms Excluded Space and Terminable Laboratory Space are defined in Section 2.4 hereof. The Office Space is comprised of and defined to be the spaces identified in (x) through (z) hereafter: (x) the entirety of floors nine and ten of the Building plus (y) that portion of the seventh floor of the Building containing approximately 20,000 rentable square feet as measured in accordance with the Method and being identified on Exhibit E as Seventh Floor Office Space, and (z) (unless included in the Excluded Space), that portion

of the first floor of the Building (the "Terminable First Floor Office Space") containing approximately 10,000 rentable square feet, as measured in accordance with the Method and being identified on Exhibit E as First Floor Office Space (Clinical). Notwithstanding the foregoing to the contrary, the Leasable Premises shall not include any Laboratory Space or Office Space withdrawn ^{from the Leasable} by Premises Tenant pursuant to Section 6.2(d) or ~~withdrawn~~ by Landlord pursuant to Section 6.4(d).

Premises:

Such portion(s) of the Leasable Premises with respect to which "Landlord's Work" (as defined in Section 6.2(b)) shall be substantially complete, pursuant to Section 6.2(c), or shall be deemed to be substantially complete, pursuant to Section 6.1.

Rentable Square Footage of
the Building

649,815 square feet, as
measured in accordance with the
Method.

Rentable Square Footage
of Laboratory Space:

219,538 square feet as measured
in accordance with the Method,
less the rentable area from
time to time of such portion(s)
of the Laboratory Space as
shall be excluded ^{for withdrawn} from the
Leasable Premises as
hereinabove provided.

Rentable Square Footage
of Office Space:

95,966 square feet as measured
in accordance with the Method,
less the rentable area from
time to time of such portion(s)
of the Office Space as shall be
excluded from the Leasable
Premises as hereinabove
provided.

Rentable Square Footage
of the Premises:

The sum, from time to time, of
the Rentable Square Footage of

Laboratory Space plus the
Rentable Square Footage of
Office Space.

Tenant's Proportionate

Share:

The ratio of the Rentable
Square Footage of the Premises
from time to time to the
Rentable Square Footage of the
Building.

Base Tax Amount:

\$1,293,129.90 (\$1.99 per
Rentable Square Footage of the
Building).

Base Operating Expenses:

\$ 700,000.00.

Broker:

R.M. Bradley & Company, Inc.

ARTICLE 2

DESCRIPTION OF PREMISES AND APPURTENANT RIGHTS; TERM

2.1 PREMISES. Landlord hereby demises and leases to
Tenant, and Tenant hereby accepts from Landlord, the Premises
identified in the foregoing portions of this Lease, for the
Lease Term.

2.2 APPURTENANT RIGHTS AND RESERVATIONS. Tenant shall have, as appurtenant to the Premises, the nonexclusive right to use and to permit its invitees to use in common with others, public or common lobbies, hallways, stairways, passenger and freight elevators and sanitary facilities in the Building (specifically including, without limitation, such levels of the four-level bridge connecting the Building to the adjacent property known as Building 199 as shall connect any portion of the Premises to Building 199), but such rights shall always be subject to reasonable rules and regulations from time to time established for the Building by Landlord by suitable notice and to the right of Landlord to designate and change from time to time areas and facilities so to be used (provided that such designation or change shall not materially diminish either services provided to the Premises or ease of access to the Premises by Tenant, its employees or invitees).

Excepted and excluded from the Premises are the ceiling, the floors and all perimeter walls of the Premises, except the inner surfaces of each and any space in the Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electrical or other utilities, sinks or other Building facilities, but the entry doors to the Premises are a part thereof; and Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as to reduce to a minimum interference with Tenant's use of the Premises)

interior storm windows, sun control devices, utility lines, equipment, stacks, ducts, conduits, pipes and the like to serve premises other than the Premises, and to replace, maintain and repair such utility lines, pipes and the like, in, over and upon the Premises.

During the hours of 8:00 A.M. to 6:00 P.M., Monday through Friday, and 8:00 A.M. to 1:00 P.M. on Saturdays, all Federal, state, county and city legal holidays in all cases excepted (hereinafter referred to as "Normal Building Operating Hours"), the Building shall be open and access to the Premises shall be freely available, subject to interruption due to causes beyond Landlord's reasonable control. During periods other than Normal Building Operating Hours, Tenant shall have access to the Premises, but such access shall always be subject to reasonable rules and regulations therefor from time to time established for the Building by Landlord by suitable notice. Tenant acknowledges that Tenant is responsible for providing security to the Premises (or the Leasable Premises, if applicable) following Tenant's entry onto the Premises or the Leasable Premises for any reason and for its own personnel (as opposed to common area security services which Landlord shall provide pursuant to Article 7), and Tenant shall indemnify, defend with counsel of Landlord's selection, and save Landlord harmless from any claim for injury to person or damage to property asserted by any personnel, employee,

guest, invitee or agent of Tenant to have been suffered or to have occurred in or about the Premises or in or about the Building by reason of the act of an intruder or any other person in or about the Premises or the Building, except to the extent caused by the gross negligence of Landlord, its agents or employees.

2.3 TENANT'S RIGHT TO PURCHASE. Provided that, at the time of such exercise, there exists no Event of Default, and this Lease is still in full force and effect, Tenant shall (subject to the following restrictions and conditions), effective on or before May 31, 1997, be entitled to acquire Landlord's interest in the Building and Lot and the Building and Lot defined in the Building 199 Lease (collectively the "Property"), subject to then existing leases to occupancy tenants, the "Ground Lease" (as defined in Section 4.3), the agreement between Landlord and the Building's management company (the "Management Agreement") and all other encumbrances, restrictions, exceptions and liens identified on Exhibit F, together with such other encumbrances, restrictions and exceptions on the Property as of such date of transfer which do not affect marketability, do not materially affect the market value of the Property and which shall be or have been approved by Tenant, which approval shall not be unreasonably withheld or delayed (herein collectively, "Permitted Encumbrances").

, Any then existing financing (except
As otherwise provided in the third
Paragraph of this Section 2.3)
on the property

Tenant shall exercise such option by giving written notice to Landlord ^{of such exercise} not less than one year in advance. The purchase price shall be the greater of (a) the fair market value of the Property (as designated by Landlord), subject to then existing leases to occupancy tenants, the Ground Lease and all Permitted Encumbrances, ~~or (b)~~ ^{but shall in no event be less than} One Hundred Seventy-Eight Million Three Hundred Thousand Dollars (\$178,300,000). If Tenant disagrees with Landlord's designation of the fair market value, and the parties cannot agree upon such value within thirty (30) days of Tenant's exercise of its option hereunder, then such value shall be determined in accordance with Exhibit FMV. The remaining terms for such transaction shall be the then standard terms in effect in the City of Boston for similar transactions except as hereinafter provided, and each party shall pay its own legal fees.

As a condition precedent to Landlord's obligation to convey such interest, Tenant shall at its sole cost and expense obtain all approvals and consents of the BRA required for such conveyance in form reasonably satisfactory to Landlord, shall pay any fees or charges payable to the BRA in connection with such conveyance and all prepayment fees to any mortgagee of the Property (unless the obligations of Landlord to any such mortgagee shall be assumable in which case as part of the purchase price Tenant shall assume the obligations of Landlord to such mortgagee(s), which assumption shall be in form reasonably satisfactory to

Landlord) and shall also pay all other "closing" costs, specifically including, without limitation, any applicable "transfer" taxes, recordation fees and other similar charges.

Notwithstanding any of the foregoing to the contrary, the options herein granted shall in no event prevent Landlord from selling the Property at any date prior to such date as Tenant shall have properly exercised its right to purchase the Property, provided however that in the event of a proposed sale to a third party or parties prior to May 31, 1997, Landlord shall notify Tenant of the ^{materia} ~~salient~~ terms of such proposed sale, and Tenant may, by giving notice to Landlord within forty-five (45) days of receipt of Landlord's notice, elect to acquire the Property on the terms and conditions stated in Landlord's notice. If Tenant shall not properly elect to enter into such transaction then Landlord shall thereafter be free to convey the Property to a third party or parties at any time within the next nine (9) calendar months following Landlord's notice to Tenant on substantially the same terms and conditions as offered to Tenant; and Tenant's failure to consummate such transaction following an election to enter into such transaction shall vitiate any further rights of Tenant under this Section 2.3 and Landlord shall thereafter be free to convey the Property at any time, to any party, on terms and conditions as Landlord deems appropriate. Furthermore, upon the sale by Landlord of its interest in the Property pursuant to this

Section 2.3, Tenant shall have no further rights under this Section 2.3. *And this Section 2.3 shall thereupon be null and void*

In the event of the sale of Landlord's interest in the Property to Tenant pursuant to this Section 2.3, this Lease shall terminate and all obligations of Landlord and Tenant hereunder shall cease as of the closing of such sale, except that (i) Tenant shall assume Landlord's obligations under the Permitted Encumbrances (specifically including, without limitation, the Management Agreement) in form reasonably satisfactory to Landlord and (ii) Landlord shall remain obligated to pay, if not so paid at or prior to closing, all so-called "linkage" payments to the City of Boston.

Tenant may exercise its rights under this Section 2.3 only in conjunction with the contemporaneous exercise of Tenant's rights under Section 2.3 of the Building 199 Lease.

2.4 OPTION TO EXCLUDE. In the event that Tenant shall have failed to acquire sufficient funding to meet its rental and other obligations hereunder if the entire sixth floor of the Building and the Terminable Seventh Floor Laboratory Space (collectively the "Terminable Laboratory Space") and the Terminable First Floor Office Space would otherwise be included in the Leasable Premises and shall provide to Landlord a certificate signed by a responsible officer of Tenant confirming the failure to acquire such funding, and provided that, at the time of such exercise this Lease is in

full force and effect, Tenant shall have the option to exclude from the Leasable Premises all or certain portions of such aforementioned spaces, as hereinafter provided. Tenant shall exercise such option(s) by giving Landlord notice of such exercise, including notice of the space to be excluded (hereinafter the "Excluded Space") not later than that date (the "Space Termination Date") which shall be March 1, 1988 with respect to the Terminable Laboratory Space, and which shall be March 1, 1987 with respect to the Terminable First Floor Office Space. In no event, however, shall the Excluded Space be comprised of any space other than (i) the entire Terminable Seventh Floor Laboratory Space or any such portion thereof (a "Permitted Portion") which shall contain not less than twenty-five thousand rentable square feet as measured in accordance with the Method, shall be more or less of rectangular shape and shall have as one of its demising walls the interior of the Ninth Street or Thirteenth Street Building line, (ii) the entire sixth floor of the Building or a Permitted Portion thereof, (iii) the Terminable First Floor Office Space, or (iv) any combination of (i) through (iii) (each hereinafter being an "Excludable Space").

Provided that Tenant has validly exercised such option(s), effective as of the date(s) of such exercise, the Excluded Space shall be deleted from the Leasable Premises and the definition of Leasable Premises shall be modified to exclude the Excluded Space. In the event (i) Tenant fails to give such notice(s) to Landlord by the Space Termination

Date(s), or (ii) Tenant provides Tenant's Additional Plans to Landlord for any theretofore Excludable Space, Tenant shall have no further option (other than as provided in Section 6.2(d)) to exclude such space(s) from the Leasable Premises, Tenant acknowledging that time is of the essence with respect to such option. Upon the occurrence of the events described in clauses (i) or (ii) of the immediately preceding sentence, the definition of Excludable Space shall be modified accordingly.

In consideration of the financial burdens undertaken by Landlord in performing its obligations under this Lease, Tenant covenants and agrees that it (and any Affiliate of Tenant) shall not solicit, acquire or lease space in any building in the greater metropolitan Boston area for the Use to which the Terminable Laboratory Space could be put hereunder (or negotiate for the acquisition or leasing of such space) until the date on which Tenant shall have or shall be deemed to have waived its right to exclude any Terminable Laboratory Space from the Leasable Premises.

Notwithstanding any of the foregoing to the contrary, should an Event of Default exist as of the applicable Space Termination Date, Landlord may include as Excluded Space the Terminable First Floor Office Space or the Terminable Laboratory Space (or both, as applicable), at Landlord's election to be exercised by notice to Tenant within thirty (30) days following notice to Tenant of the existence of an Event of Default, provided that if within such thirty-day

period Tenant shall have cured such Event of Default (the term "cure" for purposes of this Section 2.4 and Section 2.5 including the taking of such action as would have prevented the occurrence of such Event of Default in the first instance) such election by Landlord shall be nullified.

2.5 OPTIONS TO EXTEND. (a) Provided that at the time of the exercise of each such option there exists no Event of Default which has not been cured within thirty (30) days following notice to Tenant of the existence of such Event of Default and provided that this Lease is still in full force and effect, Tenant shall have the right to extend the Lease Term with respect to the Office Space for two (2) additional periods of five years each (respectively, the "First Office Space Extension Term" and the "Second Office Space Extension Term"), such periods to begin immediately following the expiration of the Initial Office Space Term or the First Office Space Extension Term, as applicable. All of the terms, covenants and provisions of this Lease shall apply to both the First Office Space Extension Term and the Second Office Space Extension Term except that (i) the Fixed Rent for Office Space for the First Office Space Extension Term shall be the greater of (a) the Fixed Rent for Office Space in effect on the last day of the Initial Office Space Term, and (b) the fair market rental value for the Office Space at the commencement of such First Office Space Extension Term, as designated by Landlord; and (ii) the Fixed Rent for Office

Space for the Second Office Space Extension Term shall be the greater of (a) the Fixed Rent for Office Space in effect on the last day of the First Office Space Extension Term and (b) the fair market rental value for the Office Space at the commencement of such Second Office Space Extension Term, as designated by Landlord. If Tenant shall elect to exercise either such option, it shall do so by giving to Landlord notice of such exercise not later than six months following Landlord's request for notice of Tenant's intention to exercise either option, which request for notice shall be made by Landlord to Tenant, with respect to the First Office Space Extension Term, not sooner than eighteen months prior to the expiration of the Initial Office Space Term, and with respect to the Second Office Space Extension Term, not sooner than eighteen months prior to the expiration of the First Office Space Extension Term. So long as Landlord shall make such request, if Tenant fails timely to give either such notice to Landlord, ~~this~~ ^{the} Lease ^{Term with respect to the Office Space} shall automatically terminate at the end of the Initial Office Space Term or ^{the lease shall automatically} ~~the First~~ ^{terminate at} ~~the end of~~ Office Space Extension Term (as applicable) and Tenant shall have no further option to extend the Lease Term with respect to the Office Space. If Tenant shall give such notice, the extension of the Lease Term with respect to the Office Space shall be automatically effected as herein provided without the execution of any additional documents.

(b) Provided that at the time of the exercise of such option there exists no Event of Default which has not been cured within thirty (30) days following notice to Tenant of the existence of such Event of Default, and provided that this Lease is still in full force and effect, Tenant shall have the right to extend the Lease Term with respect to the Laboratory Space for one (1) additional period of five (5) years (the "Laboratory Space Extension Term"), such period to begin immediately following the expiration of the Initial Laboratory Space Term. All of the terms, covenants and provisions of this Lease shall apply to such Laboratory Space Extension Term except that the Fixed Rent for Laboratory Space for such First Laboratory Space Extension Term shall be the greater of (a) the Fixed Rent for Laboratory Space in effect on the last day of the Initial Laboratory Space Term, and (b) the fair market rental value for the Laboratory Space at the commencement of such Laboratory Space Extension Term, as designated by Landlord. If Tenant shall elect to exercise such option, it shall do so by giving to Landlord notice of such exercise not later than six (6) months following Landlord's request for notice of Tenant's intention to exercise such option, which request for notice shall be made by Landlord to Tenant not sooner than eighteen (18) months prior to the expiration of the Initial Laboratory Space Term. So long as Landlord shall make such request, if Tenant fails timely to give such notice to Landlord, this Lease shall automatically terminate at the end of the Initial Laboratory

Space Term and Tenant shall have no further option to extend the Lease Term with respect to the Laboratory Space (or to extend the Lease Term with respect to the Office Space) beyond the First Extension Term, if Tenant shall give such notice, the extension of the Lease Term with respect to the Laboratory Space shall automatically be effected as herein provided without the execution of any additional documents.

(c) If Tenant disagrees with Landlord's designation of the fair market rental value of the Office Space for the First Office Space Extension Term, or the Second Office Space Extension Term or the Laboratory Space for the Laboratory Space Extension Term, and the parties cannot agree upon the such market value not later than six (6) months prior to the commencement of the ~~Initial~~ ^{First} Office Space ~~Term~~ ^{Extension}, the Second Office Space Extension Term or the Laboratory Space Extension Term, as applicable, then the fair market rental value thereof shall be determined in accordance with Exhibit FMV.

(d) If Landlord shall fail to request Tenant's notice of intention to exercise any such option timely as hereinabove provided, then the existing Term (i.e., either the Initial Office Space Term, the First Office Space Extension Term or the Initial Laboratory Space Term) shall be extended on all terms and conditions applicable thereto until Landlord shall have provided to Tenant the six-month notice as hereinabove provided (unless Tenant shall, by notice to

Landlord on or prior to such six-month date, elect to terminate ~~this Lease~~ ^{the}, and the commencement of the First Office Space Extension Term, the Second Office Space Extension Term or the Laboratory Space Extension Term as applicable, shall be delayed, but the expiration of any such Extension Term shall remain as if its commencement had occurred as initially contemplated.

Term with respect to the Office Space at the end of the Initial Office Space Term or to terminate this lease at the end of the Initial Laboratory Space Term and the end of the First Office Space Extended Term

(e) Notwithstanding the foregoing to the contrary, Tenant may exercise its option to extend the Lease Term with respect to the Office Space for the Second Office Space Extension Term only if it shall elect contemporaneously to exercise its option to extend the Lease Term with respect to the Laboratory Space for the Laboratory Space Extension Term; and Tenant may exercise its option to extend the Lease Term with respect to the Laboratory Space for the Laboratory Extension Term only if it shall elect contemporaneously to exercise its option to exercise the Lease Term with respect to the Office Space for the Second Office Space Extension Term, all as hereinabove provided.

~~(f) In no event shall the Second Office Space Extension Term or the Laboratory Space Extension Term, notwithstanding the provisions of subparagraph (a) to the contrary, extend the Lease Term to such point as to implicate the provisions of I.R.C. Section 168(f).~~

2.6 OPTION TO EXPAND ON RIGHT OF FIRST REFUSAL BASIS.

Should Landlord, at any time prior to December 31, 1987, desire to lease all or any portion of the fifth floor of the Building (excluding the Fifth Floor Mechanical Space), it shall so notify Tenant including with such notice the area to be leased (the "Offered Space"). If Tenant shall desire to lease such Offered Space, it shall exercise its right to expand ^{the Leasable Premises} by notice to Landlord on or before that date (the "Acceptance Date") sixty (60) days after Landlord's notice to Tenant, including with such notice (i) a designation as to which portions ~~(if any)~~ of the Offered Space shall be Laboratory Space or Office Space, and (ii) complete plans and specifications, including mechanical, electrical and plumbing drawings (and any other "shop drawings), for such space(s) (Tenant's Fifth Floor Plans") for Landlord's approval which Tenant's Fifth Floor Plans shall be stamped by the ^{ali)} "Architect", as defined in Section 6.2 ~~(f)~~, certifying compliance with building code. Failure by Landlord to disapprove any submission of Tenant's Fifth Floor Plans within ten (10) business days after receipt shall constitute approval. Any disapproval shall be accompanied by a specific statement of the reason therefor and Tenant shall promptly revise and resubmit such Tenant's Fifth Floor Plans. The remaining terms and conditions for the Offered Space shall be such terms and conditions in Section 6.2(b) through Section 6.6 hereof as apply to space to be constructed according to

Tenant's Additional Plans, it being understood, however, that in applying Section 6.4(a)(iii) to this Section 2.6, such clause shall be deemed to be as follows: failure to submit Tenant's Fifth Floor Plans by the Acceptance Date or to obtain Landlord's approval thereof within twenty (20) business days of such Acceptance Date or to execute the work letter requested by Landlord confirming excess costs of such Tenant's Fifth Floor Plans.

Provided Tenant has properly exercised such option(s), effective as of the date(s) of such exercise, the definition of Leasable Premises shall be modified accordingly. The work shown on Tenant's Fifth Floor Plans shall be deemed included in the definition of Landlord's Work and when "substantially complete" (as defined in Section 6.2(c)) such Offered Space shall be included in the definition of Premises and the definitions of Office Space or Laboratory Space (or both) and Rentable Square Footage of Office Space or Rentable Square Footage of Laboratory Space (or both) shall be modified accordingly. In the event Tenant fails to give such notice(s) ^{with such Tenant's Fifth Floor Plans} by the relevant Acceptance Date, then Landlord shall thereafter be free to lease such space to a third party or parties on such terms or conditions as Landlord deems appropriate, and if Landlord shall so lease such space, Tenant shall have no further rights with respect thereto.

ARTICLE 3

RENT

3.1 FIXED RENT FOR OFFICE SPACE. Tenant agrees to pay to Landlord the Fixed Rent for the Office Space (as hereinafter defined) at the Present Mailing Address of Landlord, or as otherwise directed by Landlord, without abatement, notice, demand, off-set or deduction, on the Commencement Date and thereafter, in equal monthly installments, in advance, on the first day of each and every calendar month during the Lease Term. The Fixed Rent for the Office Space shall be the sum of: (i) for the period expiring as of December 31, 1988, Seventeen and Seventy-Nine Hundredths Dollars (\$17.79) per Rentable Square Footage of Office Space per annum; (ii) for the next twenty-four calendar months, Nineteen and Sixty-Six Hundredths Dollars (\$19.66) per Rentable Square Footage of Office Space per annum; (iii) for the next twelve calendar months, Twenty and Fifty-Nine Hundredths Dollars (\$20.59) per Rentable Square Footage of Office Space per annum; (iv) for the remainder of the Initial Office Space Term, Twenty-Three and Forty Hundredths Dollars (\$23.40) per Rentable Square Footage of Office Space per annum; and (v) (if applicable) for the First Office Space Extension Term and the Second Office Space Extension Term, the amount provided in Section 2.5.

3.2 FIXED RENT FOR LABORATORY SPACE. Tenant agrees to pay to Landlord the Fixed Rent for the Laboratory Space (as

hereinafter defined) at the Present Mailing Address of Landlord, or as otherwise directed by Landlord, without abatement, notice, demand, off-set or deduction, on the Commencement Date and thereafter, in equal monthly installments, in advance, on the first day of each and every calendar month during the Lease Term. The Fixed Rent for the Laboratory Space shall be the sum of: (i) for the period expiring as of December 31, 1988, Twenty-Six and Three Hundredths Dollars (\$26.03) per Rentable Square Footage of Laboratory Space per annum; (ii) for the next twenty-four calendar months, Twenty-Eight and Fifty-Three Hundredths Dollars (\$28.53) per Rentable Square Footage of Laboratory Space per annum; (iii) for the next twelve calendar months, Twenty-Nine and Forty-Eight Hundredths Dollars (\$29.48) per Rentable Square Footage of Laboratory Space per annum; (iv) for the next sixty calendar months, Thirty-Two and Thirty-Three Hundredths (\$32.33) per Rentable Square Footage of Laboratory Space per annum; (v) for the remainder of the Initial Laboratory Space Term, Forty-Two and Seventy-Nine Hundredths Dollars (\$42.79) per Rentable Square Footage of Laboratory Space per annum; and (vi) (if applicable) for the Laboratory Space Extension Term, the amount provided in Section 2.5.

3.3 FIXED RENT FOR PARTIAL MONTH. Fixed Rent for any partial month shall be paid by Tenant at the applicable rate provided in Section 3.1 and 3.2 on a pro rata basis. If the

Commencement Date occurs on a day other than the first day of a calendar month, the first payment which Tenant shall make shall be a payment equal to a proportionate part of such monthly Fixed Rent for the partial month from the Commencement Date to the first day of the succeeding calendar month.

3.4 LANDLORD'S CONTRIBUTION. Provided that at such time there exists no Event of Default and this Lease is still in full force and effect, Landlord shall pay to Tenant, on the Substantial Completion Date (or the Initial Completion Date, if applicable), and on each Subsequent Completion Date, a contribution toward moving expenses equal to the product of (a) the rentable square footage being added to the Premises as of each respective Date, multiplied by (b) nine and twenty hundredths dollars (\$9.20). Should there exist an Event of Default on any such Date and should Landlord therefor withhold such payment, Landlord shall nonetheless pay to Tenant such withheld amount promptly following the date on which there shall no longer exist any Event of Default.

ARTICLE 4

USE OF PREMISES

4.1 PERMITTED USE. Tenant agrees that the Premises shall be used and occupied by Tenant only for the purpose specified in Section 1.2 of this Lease, and for no other purpose or purposes.

Tenant acknowledges that Landlord has made no representation or warranty with respect to zoning, environmental, health and safety, building or other federal, state or local laws, regulations or ordinances which may prohibit, restrict or control certain (or all) purposes permitted by the Use or for which Tenant intends to occupy the Premises, Tenant agreeing that no restriction on, or prohibition or control of, the use to which the Premises may now or hereafter lawfully be put shall be deemed a partial or total, actual or constructive, eviction (express or implied in law) or shall affect any of Tenant's obligations hereunder. Notwithstanding the foregoing, in the event that Tenant shall be unable, after using (at Tenant's sole cost and expense) best efforts to obtain the same and the expiration of a reasonable time needed to make such best efforts, to obtain any permit initially required for any use which is a significant component of the operations for which Tenant intends to use the Laboratory Space and which is either a use Tenant lawfully makes of space at the so-called Wellman Building as of the date hereof (a "Wellman Use") or which is a so-called "P-3" use, and provided Tenant shall have so notified Landlord of such failure on or before delivery of Tenant's Initial Plans to Landlord, Tenant shall be entitled to withdraw from the Leasable Premises all of the Laboratory Space and upon such notice, the Laboratory Space shall be excluded from the Leasable Premises and Landlord and

Tenant shall have no further obligations with respect to such ^{Laboratory} Space.

Tenant further agrees to conform to the following provisions during the entire Lease Term and such further time as Tenant occupies any part of the Premises.

(a) Tenant shall cause all freight (including furniture, fixtures and equipment used by Tenant in the occupancy of the Premises) to be delivered to or removed from the Building and the Premises in accordance with reasonable rules and regulations established for the Building by Landlord which may require that such deliveries or removals be undertaken during periods other than Normal Business Hours;

(b) Tenant shall not place on the exterior of exterior walls (including both interior and exterior surfaces of windows and doors) or on any part of the Buildings outside the Premises, any sign, symbol, advertisement or the like visible to public view outside of the Premises, without the prior written approval of Landlord and the BRA. Without limitation, lettering on windows and window displays are expressly prohibited. Tenant may not install any such signage unless the same shall comply with all applicable laws, specifically including without limitation the Boston Sign Code. Landlord agrees to maintain a tenant directory in the lobby of the Building in which Tenant will be entitled to that number of lines of signage equal to the product of the

Building standard of lobby signage lines per rentable square foot multiplied by the Rentable Square Footage of the Premises (except that if the number so calculated results in a fraction of a line, such fraction shall be disregarded and the number of lines of signage available to Tenant shall be rounded down to the next whole number). Landlord will supply and install, at its expense, the initial signs for each line provided that Tenant has supplied Landlord with all information necessary therefor.

(c) Tenant shall not perform any act or any practice which may injure the Premises, or any other part of the Building, or cause any offensive odors or loud noise or other emission from the Premises (Landlord agreeing that to the extent standards have been set for such emissions on plans approved by Landlord, such emissions shall not be prohibited provided that such emissions shall be in compliance (the term "compliance" in this subparagraph (c) including compliance due to so-called "grandfathered" activity) with all applicable laws, rules, regulations and ordinances in effect from time to time), or constitute a nuisance or a menace to any other tenant or tenants or other persons in or adjacent to the Building (Landlord agreeing that any Wellman Use shall not constitute such a nuisance or menace provided such use shall be in compliance with all applicable laws, rules, regulations and ordinances in effect from time to time);

(d) Tenant shall conduct Tenant's business in the Premises in such a manner that Tenant's invitees shall not collect, line up or linger in the lobby or corridors of the Building, but shall be entirely accommodated within the Premises; and Tenant shall not obstruct in any manner any portion of the Building and shall take such reasonable security precautions as necessary (including crowd control) to insure that access to the Building is not obstructed in any manner due to the conduct of Tenant's activities on the Premises;

(e) Tenant shall comply and shall cause all employees to comply with all rules and regulations from time to time established for the Building by Landlord by suitable notice. Landlord shall use reasonable efforts to insure that any such rules and regulations are uniformly applied and enforced but Landlord shall not be responsible for the noncompliance with any such rules and regulations by any other tenant or occupant of the Building.

(f) Tenant shall keep the Premises equipped with all safety appliances required by law or ordinance or any other regulation of any public authority because of any use made by Tenant, and shall procure all licenses and permits so required because of such use and, if requested by Landlord, shall perform, at Tenant's expense, any work so required because of such use, it being understood that the foregoing

provisions shall not be construed to broaden in any way the permitted Use; provided, however, that this subsection (f) shall in no event discharge Landlord from its obligation, pursuant to Section 6.2(b), to obtain all permits and do all work necessary to obtain a certificate of occupancy (temporary or permanent) for the Premises in the course of completing Landlord's Work.

(g) Tenant shall perform cleaning of the Premises at its sole cost and expense, in a fashion consistent with other similar first-class research and development buildings in the downtown Boston area.

4.2 ALTERATIONS. Tenant shall not alter or add or improve the Premises, except in accordance with written consent from Landlord, which Landlord agrees not unreasonably to withhold as to non-structural alterations or additions, subject however to the express limitations, restrictions, conditions or controls contained in the Ground Lease, specifically including, without limitation, those contained in Article 8 of the Ground Lease entitled "Changes and Alterations". All work performed by Tenant shall be done in accordance with all applicable laws, in a good and first-class workmanlike manner, by contractors and mechanics approved by Landlord, in strict accordance with the requirements of the Ground Lease, specifically including, without limitation, those contained in Article 32 thereof

entitled "Nondiscrimination; Employment; No Conflicts", and Landlord's insurers and Tenant's insurers, in accordance with plans approved by Landlord, and at Tenant's sole cost and expense. Any contractor or other person undertaking any work in the Premises on behalf of Tenant shall be covered by Comprehensive General Liability (including coverages for Protective and Contractual Liability, for purposes of the indemnification clause of Section 9.1, Builders Risk, and Comprehensive Automotive Liability Insurance covering all vehicles used in connection with such work) and Workmen's Compensation insurance all with coverage limits acceptable to Landlord and evidence thereof shall be furnished to Landlord prior to the performance by such contractor or person of any work in respect of the Premises. All work performed by Tenant in the Premises shall remain therein (unless at the time of approval of plans therefor Landlord directs Tenant to remove the same prior to expiration or termination of this Lease) and, at termination shall be surrendered as a part thereof, except for Tenant's usual trade furniture and equipment, if movable and installed prior to or during the Lease Term by Tenant at Tenant's cost, which trade furniture and equipment Tenant may (and if Landlord so requests, shall) remove upon the termination of this Lease provided that Tenant is not then in default hereunder. Tenant agrees to repair any and all damage to the Premises resulting from such removal (including removal of Tenant's improvements directed by Landlord) or, if Landlord so elects, to pay Landlord for

the cost of any such repairs forthwith after billing therefor.

4.3 GROUND LEASE. Tenant acknowledges that the Building and the Lot are subject to a certain ground lease, including all exhibits attached thereto, specifically including, without limitation, Exhibit D thereof (First Source Agreement, including Exhibit A and Exhibit WCG thereto), dated as of May 23, 1985 (the "Ground Lease") to Landlord from the Boston Redevelopment Authority, a body politic and corporate organized under the laws of the Commonwealth of Massachusetts (together with its successors and assigns (the "BRA"). Tenant acknowledges that it has received and reviewed the Ground Lease and agrees to comply with all provisions of the Ground Lease as the same relate to this Lease and the Premises (and to cooperate with Landlord in complying with such provisions), and further covenants that it shall not, by its actions or inaction, cause Landlord to be in violation of any of Landlord's obligations thereunder. Tenant further acknowledges that specific reference in this Lease to compliance with requirements under the Ground Lease (including the receipt of BRA approval) is solely intended to draw attention to the specific requirement or necessary approval, and shall in no event excuse Tenant from such compliance or the need to obtain such approval even where such specific reference is not made.

Pursuant to Landlord's obligations under the Ground Lease, Landlord hereby notifies Tenant that it supports the pursuit of the Workforce Composition Goals set forth in the First Source Agreement attached to the Ground Lease as Exhibit D and encourages Tenant to pursue such goals in its own employment practices. Specifically, Tenant is hereby notified that Landlord supports the affirmative action and resident preference goals, which are attached to the Ground Lease as Exhibit "WCG" of Exhibit A (Permanent Employment Program) to the First Source Agreement (Exhibit D of the Ground Lease) regarding the employment of City of Boston residents, minorities, females, low to moderate income persons, and economically disadvantaged persons, and encourages Tenant to pursue such goals in Tenant's own employment practices. Landlord actively encourages Tenant to enter into agreement and to make use of employment and training services provided by Neighborhood Development Employment Agency, Boston Private Industry Council or its designated agencies including use of the Boston Job Exchange. In connection with hiring to fill permanent jobs at the premises, Tenant shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national origin, age or sex. Tenant shall comply to the extent applicable with Title VII of the U.S. Civil Rights Act and M.G.L. c. 151B with respect to employment at the Premises.

ARTICLE 5

ASSIGNMENT AND SUBLETTING

5.1 PROHIBITION. Notwithstanding any other provisions of this Lease, Tenant covenants and agrees that except as provided below, it will not assign this Lease or sublet (which term, without limitation, shall include the granting of concessions, licenses, management arrangements and the like) the whole or any part of the Premises without, in each instance, having first received the express written consent of Landlord. Landlord's consent shall not be unreasonably withheld (provided such sublease shall comply with Section 5.2) as to the subleasing of up to fifty percent (50%) of the Premises other than to Affiliates (as defined in Section 5.4), but as to any subleasing which would result in the subleasing of fifty percent (50%) or more of the Premises to other than Affiliates and as to any assignment other than to an Affiliate, then, notwithstanding anything to the contrary in this Lease, Tenant understands and specifically agrees that Landlord may, in its sole discretion, withhold its consent to any such proposed subletting or assignment. Any assignment of this Lease or subletting of the whole or any part of the Premises (other than as permitted to an Affiliate as set forth below) by Tenant without Landlord's express consent shall be invalid, void and of no force or effect. In any case where Landlord shall consent to such assignment or subletting, the Tenant named herein shall remain fully liable

for the obligations of Tenant hereunder, including, without limitation, the obligation to pay the Fixed Rent, additional rent and other amounts provided under this Lease. Any such request shall set forth, in detail reasonably satisfactory to Landlord, the identification of the proposed assignee or sublessee, its financial condition and the terms on which the proposed assignment or subletting is to be made, including, without limitation, the rent or any other consideration to be paid in respect thereto and such request shall be treated as Tenant's warranty in respect of the information submitted therewith.

It shall be a condition of the validity of any assignment or subletting (whether or not to an Affiliate) that the assignee or sublessee agrees directly with Landlord, in form reasonably satisfactory to Landlord, to be bound by all the obligations of Tenant hereunder, including, without limitation, the obligation to pay Fixed Rent, additional rent and other amounts provided for under this Lease and that any assignment or sublease shall contain absolute covenants against any further assignment and subletting without Landlord's prior express written consent, which may be withheld in Landlord's sole discretion. Any such assignment or subletting shall not relieve the Tenant named herein of any of the obligations of Tenant hereunder, and Tenant shall remain fully liable therefor. In no event, however, shall Tenant assign this Lease or sublet the whole or any part of

the Premises to a proposed assignee or sublessee which has been judicially declared bankrupt or insolvent according to law, or with respect to which an assignment has been made of property for the benefit of creditors, or with respect to which a receiver, guardian, conservator, trustee in involuntary bankruptcy or similar officer has been appointed to take charge of all or any substantial part of the proposed assignee's or sublessee's property by a court of competent jurisdiction, or with respect to which a petition has been filed for reorganization under any provisions of the Bankruptcy Code now or hereafter enacted, or if a proposed assignee or sublessee has filed a petition for such reorganization, or for arrangements under any provisions of the Bankruptcy Code now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts.

Without limitation of the rights of Landlord hereunder in respect thereto, except with respect to an Affiliate of Tenant, if there is any assignment of this Lease by Tenant, for consideration, or a subletting of the whole of the Premises by Tenant at a rent which exceeds the rent payable hereunder by Tenant, or if there is a subletting of a portion of the Premises by Tenant at a rent in excess of the subleased portion's pro rata share of the rent payable hereunder by Tenant, then Tenant shall pay to Landlord, as additional rent, forthwith upon Tenant's receipt of the

consideration (or the cash equivalent thereof) therefor, in the case of an assignment, and, upon Tenant's receipt of the rent, in the case of a subletting, one-half (1/2) of, as the case may be, the amount of the consideration, in the case of an assignment, or the excess rent, in the case of a subletting after deduction of reasonable expenses incurred for real estate brokerage commissions and legal fees expended and (provided Tenant shall have actively and in good faith attempted to effectuate any such sublease or assignment) any "vacancy loss" in connection therewith. The provisions of this paragraph shall apply to each and every assignment of the Lease and each and every subletting of all or a portion of the Premises, to other than an Affiliate, in each case on the terms and conditions set forth herein. For the purposes of this Section 5.1, the term "rent" shall mean all fixed rent, additional rent or other payments and/or consideration payable by one party to another for the use and occupancy of all or a portion of the Premises.

5.2 OFFERBACK. Subject to the provisions of Section 5.4, but notwithstanding any other provision of this Article 5 to the contrary, if Tenant shall intend or desire to enter into a sublease of all or any portion of the Premises, then Tenant shall give Landlord notice of such intent (the "Offer Notice") not sooner than one hundred eighty (180) days, and not later than forty-five (45) days, prior to the proposed effective date of such sublease stating the proposed area to

be covered by such sublease and the terms thereof, together with a copy of the proposed form of sublease and Landlord shall have the option (exercisable by Landlord by notice to Tenant within thirty days of receipt of such Offer Notice) to underlet from Tenant the space which Tenant so desires to sublet, for the term for which Tenant desires to sublet it, for a rent equal to the lower of

(i) the rent for which Tenant proposes to sublet such space or

(ii) the rent which Tenant by the terms of this Lease is required to pay for the rentable area of the space so to be underlet,

such underlease to be upon the covenants, agreements, terms, provisions and conditions contained in this Lease except as hereinafter provided and except for such thereof which are irrelevant or inapplicable and, without limiting the generality of the foregoing, it is hereby expressly agreed that:

(a) Such underlease to Landlord shall give the undertenant (i.e. Landlord, its successors and assigns as hereinafter provided) the unqualified and unrestricted right, without Tenant's permission, (x) to assign such underlease or any interest therein and/or to underlet the space covered by such underlease or any parts of such space for any purpose or purposes that the undertenant, in the undertenant's uncontrolled discretion, shall deem suitable or appropriate, except

that Landlord agrees that Landlord's interest in any such underlease will not be assigned except simultaneously with an assignment of Landlord's interest under this Lease so that at all times the Landlord under this Lease and the undertenant under said underlease shall be the same person, corporation or other entity, and each assignor of such underlease shall thereafter be released of all obligations under such underlease occurring subsequent to such assignment provided the assignee agrees to assume all such subsequent obligations, and (y) to make any and all changes, alterations and improvements in the space covered by such underlease deemed desirable by the undertenant;

(b) Such underlease shall provide that (x) any assignee or subtenant of the undertenant may, at the election of the undertenant, be permitted to make alterations, decorations and installations in such space or any part thereof (provided that if the space is sublet, and is to be returned to Tenant prior to the end of the Lease Term, Tenant shall have the right to require the undertenant to remove, at or prior to the date such space is returned to Tenant, and to restore to its condition as of the commencement date of underletting, any item of work performed by such subtenant of the undertenant of an unusual nature, such as, but not limited to, internal stairways, kitchen, lavatories, vaults, special flooring for computer areas

and the like), and (y) any such alterations, decorations and installations therein made by any assignee or subtenant of the undertenant may be removed, in whole or in part, by such assignee or subtenant, at its option, prior to or upon the expiration or other termination of such underlease provided that such assignee or subtenant, as its expense, shall repair the damage and injury to such space so underlet caused by such removal;

(c) Such underlease shall also provide that the parties to such underlease expressly negate any intention that any estate created under such underlease be merged with any other estate held by either of said parties, but Landlord shall nevertheless remain liable to Tenant for all rent due under such underlease. Tenant shall have the right to set off against any rent or charges due by Tenant under this Lease any amount owed Tenant under such underlease. Without limiting Tenant's right of set-off as above provided, Landlord shall have no affirmative obligation to pay rent under such underlease at any time that Tenant is in default in payment of amounts due Landlord under this Lease;

(d) Tenant shall and will at all times at its expense provide and permit an appropriate means of ingress and egress from such space so underlet by Tenant to Landlord, such means of ingress or egress to be

specified by Tenant in the Offer Notice with respect to such space;

(e) The occupant or occupants of all or any part or parts of such space shall, in common with Tenant, have the use of toilet facilities and other core facilities on the floor on which such space is located;

(f) At the expiration of such underlease, Tenant shall accept the space provided thereby in its then existing condition, provided that Landlord shall have performed Landlord's obligations to keep and maintain such space in good order and condition except for ordinary wear and tear, including the obligation imposed on Landlord with regard to work of an unusual nature pursuant to subsection (b) hereof;

(g) No default by Landlord under such underlease or by anyone claiming through such underlease shall be deemed to constitute a default under this Lease; and

(h) In the case of an underlease for the balance of the term of this Lease, this Lease shall be deemed to have been cancelled and terminated with respect to the space covered by said underlease and the Fixed Rent under this Lease and the rentable area of the Premises shall be appropriately reduced as of the effective date of such underlease, and Tenant's Proportionate Share shall be suitably reduced.

(i) In the case of such underlease, for the purpose of determining the number of parking spaces to

be included in the premises demised to Tenant under the Building 199 Lease (and only for such purpose), Rentable Square Footage of the Premises shall, for the period of such underlease, be modified to exclude therefrom the rentable area contained in the space so underlet.

5.3 CONSENT TO SUBLEASE. If Landlord does not exercise the option granted to Landlord by Section 5.2 with respect to a particular space, then for a period of nine (9) months after the expiration of the thirty-day period referred to in Section 5.2, Landlord agrees that Landlord will not unreasonably withhold or delay consent to the subletting of such space by Tenant provided that the following further conditions shall be met:

(a) The proposed rent rate (including additional rent and other allowances) payable by the proposed subtenant shall not be more advantageous to the proposed subtenant nor shall the other terms of the subletting be substantially different from those set forth in the Offer Notice;

(b) There shall not then exist an Event of Default hereunder;

(c) The proposed subtenant shall have a financial standing, be of a character, be engaged in a business, and propose to use the Premises in a manner, in keeping with the standards in such respect of the other tenancies in the Building;

(d) The character of the business to be conducted or the proposed use of the Premises by the proposed subtenant shall not (i) be likely to increase Operating Expenses beyond that which would be incurred for use by Tenant or for use in accordance with the standards of use of other tenancies in the Building; (ii) increase the burden on existing elevators over the burden prior to such proposed subletting; or (iii) violate or be likely to violate any provisions or restrictions herein relating to the use or occupancy of the Premises;

(e) No subletting shall commence prior to the second anniversary of the date on which the space covered thereby shall have been added to the Premises.

(f) Tenant shall reimburse Landlord on demand for any reasonable costs (other than normal administrative and management costs) that may be incurred by Landlord in connection with said sublease, including, without limitation, the costs of making investigations as to the acceptability of the proposed subtenant, and reasonable legal costs incurred in connection with the granting of any requested consent.

5.4 TRANSFERS TO AFFILIATES. The provisions of Section 5.1 shall not, however, be applicable to an assignment of this Lease or a subletting of all or a portion of the Premises by Tenant to an Affiliate of Tenant. An Affiliate of Tenant shall be any corporation that is Tenant's

parent, subsidiary, affiliate or controlled corporation or corporations, or any successor to Tenant by consolidation, merger or other corporate action, or any corporation, partnership or other business entity that controls or is controlled by, or is under common control with, Tenant or another Affiliate of Tenant. For the purpose of this definition, the word "control" (including "controlled by" and "under common control with") as used with respect to any corporation, partnership or other business entity, shall mean the power to direct or cause the direction of the management and policy of such corporation, partnership or other business entity, whether through the ownership of voting securities or by contract. It shall be a condition of the validity of any assignment or subletting to an Affiliate that such Affiliate agree directly with Landlord to be bound by all of the obligations of Tenant hereunder, including, without limitation, the obligation to pay the Fixed Rent, additional rent and other amounts provided for under this Lease and the covenant to use the Premises only for the purposes specifically permitted under this Lease, and shall also so agree to be bound by an absolute covenant against further assignment or subletting as otherwise required in the second paragraph of this Section 5.1; but such assignment shall not relieve the Tenant herein named of any of its obligations hereunder, and Tenant shall remain fully liable therefor. The continuing validity of any such assignment or subletting

approval. Tenant agrees promptly and expeditiously to

shall also be contingent upon such Affiliate remaining an Affiliate during the term of such assignment or subletting.

ARTICLE 6

COMMENCEMENT DATE AND CONDITION

6.1 COMMENCEMENT DATE. The Commencement Date shall be the earlier to occur of the Substantial Completion Date or the Initial Completion Date. Notwithstanding the foregoing, if Tenant ~~is personnel~~ shall occupy all or any ^{portion} ~~part~~ of the Leasable Premises for the conduct of its business prior to Substantial Completion Date or the Initial Completion Date the ~~Commencement Date as determined pursuant to the~~ ~~immediately preceding sentence~~, such date of occupancy shall, for all purposes of this Lease, be the Commencement Date and the portion of the Leasable Premises occupied shall be deemed substantially complete for all purposes.

6.2 PREPARATION OF THE PREMISES. (a) (i) Tenant is currently having complete plans and specifications, including, without limitation, mechanical, electrical and plumbing drawings and any other "shop" drawings ("Tenant's Initial Plans") prepared, at its sole cost and expense, for the initial improvements to the Leasable Premises (excluding, however, all Excludable Space), which Tenant's Initial Plans shall be stamped by the Architect certifying compliance with building code and shall be submitted to Landlord for its approval. Tenant agrees promptly and expeditiously to

(11

prepare Tenant's Initial Plans, and to substantially complete the same so that they are submitted to Landlord by March 1, 1987 (the "Plan Submission Date"). Failure by Landlord to disapprove any submission of Tenant's Initial Plans within ten (10) business days after submission shall constitute approval thereof. Any disapproval shall be accompanied by a specific statement of reasons therefor and Tenant shall promptly revise and resubmit such Tenant's Initial Plans. If Tenant's Initial Plans shall not be approved by Landlord by April 1, 1987 (the "Final Plans Date"), Landlord shall have the right to terminate this Lease by giving notice thereof to Tenant at any time within ten (10) days after the Final Plans Date and thereupon this Lease shall cease and come to an end without further obligation or liability on the part of either party.

(ii) To the extent that Tenant shall desire to include any portion of the Excludable Space in the Leasable Premises on or before that date (the "Additional Plans Date") which shall be March 1, 1988 with respect to the Terminable Laboratory Space, and which shall be March 1, 1987 with respect to the Terminable First Floor Office Space, or shall fail to elect to exclude any such Excluded Space from the Leasable Premises by such applicable Additional Plans Date, Tenant shall have prepared, at its sole cost and expense, complete plans and specifications, including, without limitation, mechanical, electrical and plumbing drawings and any other "shop" drawings ("Tenant's Additional Plans") for

the initial improvements to such portion or all of the Excludable Space, which Tenant's Additional Plans shall be stamped by the Architect certifying compliance with building code and shall be submitted to Landlord for its approval. Tenant agrees promptly and expeditiously to prepare such Tenant's Additional Plans, and to substantially complete the same so that they are submitted to Landlord by the applicable Additional Plans Date. Failure by Landlord to disapprove any submission of Tenant's Additional Plans within ten (10) business days after submission shall constitute approval thereof. Any disapproval shall be accompanied by a specific statement of reasons therefor and Tenant shall promptly revise and resubmit such Tenant's Additional Plans.

(b) Promptly after approval of Tenant's Plans and Tenant's Additional Plans, Landlord shall exercise all reasonable efforts to complete the work specified therein ("Landlord's Work") necessary to prepare the Leasable Premises for Tenant's occupancy (Landlord agreeing that it intends by the use of such reasonable efforts to complete that portion of Landlord's Work pertaining to Tenant's Initial Plans by _____, 1987, assuming that no "Tenant's Delay" (as defined in Section 6.4(c)) and no "Force Majeure" (as defined in Section 6.4(b) shall occur), but Tenant shall have no claim against Landlord for failure so to complete such Work by any such date, ~~except the right to terminate this Lease in accordance with or the right to a credit~~ as provided in Section 6.2(d). *TP* To the extent that the

requirements of Tenant's Initial Plans or Tenant's Additional Plans exceed the requirements, quantities or allowances to be paid by Landlord as set forth in Exhibit C annexed hereto, Tenant shall pay the cost of such excess to Landlord, such payment to be made on the Substantial Completion Date, the Initial Completion Date or any Subsequent Completion Date (as applicable), or on such later date as shall be ten (10) business days after Landlord shall notify Tenant of such excess cost. Such excess costs shall be the actual additional cost to Landlord (including both credits for change orders which shall reduce the cost to Landlord, as charged by Landlord's general contractor, for Landlord's Work as well as added costs due to change orders which shall increase the cost to Landlord, as charged by Landlord's general contractor for Landlord's Work) for such excess requirements, quantities or allowances, as certified by the Architect which costs shall include without limitation, additional costs for carrying charges for items purchased and for general conditions and general contractor's profit resulting from such excess requirements, quantities and allowances. Landlord shall instruct its general contractor to solicit bids from at least two subcontractors in each trade (to the extent available). Notwithstanding the foregoing to the contrary, if any punch list items remain uncompleted on the applicable ^{Initial Completion} Date, Tenant may withhold from ^{or Subsequent Completion Date} its payment of such excess cost an amount equal to one hundred twenty (120) percent of the cost, as determined by

the Architect, of completing such punch list terms. Tenant shall, however, remit to Landlord such withheld amount upon completion of such items, as determined by the Architect.

(c) The Leasable Premises (excluding, however, that portion (if any) comprised or to be comprised of any Excludable Space or any space added to the Leasable Premises pursuant to Section 2.6) shall be deemed substantially complete on that date (the "Substantial Completion Date") when that portion of Landlord's Work based upon Tenant's Initial Plans has been completed except for minor items of work which can or could be completed after occupancy has been taken without causing material interference with Tenant's use of the Premises (i.e. so-called "punch list" items) and Tenant has been given notice of such substantial completion.

Notwithstanding the foregoing, should Landlord elect to perform Landlord's Work in stages, an initial portion of the Leasable Premises (the size and location of which shall be reasonably determined by Landlord following consultation with Tenant) shall be deemed substantially complete on that date (the "Initial Completion Date") when Landlord's Work, with respect to such portion, has been completed except for punch list items, and Tenant has been given notice thereof. Each subsequent portion of the Leasable Premises (whose size and location shall be reasonably determined by Landlord following consultation with Tenant) shall be deemed substantially complete on that date (each respectively a "Subsequent

Completion Date") as of which Landlord's Work, with respect to each such portion, has been completed except for punch list items, and Tenant has been given notice thereof. Landlord shall complete as soon as conditions permit all "punch list" items and Tenant shall afford Landlord access to the Premises for such purposes.

For purposes of this subsection (c) completion shall not have occurred until (i) the Building's mechanical, electrical, plumbing, heating, ventilating and air-conditioning systems are operational to service the applicable portion of the Premises and are in proper operating condition for Tenant's use and occupancy thereof and are balanced, adjusted, cleaned and tested to conform to Tenant's Initial Plans or Tenant's Additional Plans, as applicable, (ii) at least one passenger elevator shall operate to service the floor(s) on which such space is located, (iii) at least one convenient means of access and egress to the Building for pedestrians and vehicles and all loading facilities shall be substantially completed and available for Tenant's use in common with all other entitled thereto, (iv) a temporary certificate of occupancy (which is temporary because of unfinished work outside the applicable space) shall have been issued for the Premises, and (v) all life safety equipment required by applicable codes in order to permit occupancy of such space shall be installed and operational.

(d) If the Substantial Completion Date has not occurred by _____, 198_ (the "Delivery Date"), as such date may be extended pursuant to Section 6.4, Tenant shall have the right to terminate this Lease by giving notice to Landlord, not later than thirty (30) days after the Delivery Date (as so extended), of Tenant's desire so to do; and this Lease shall cease and come to an end without further liability or obligation on the part of either party on that date (the "Termination Date") _____ (__) days after the giving of such notice, unless, within such __-day period, Landlord substantially completes that portion of Landlord's Work contemplated by Tenant's Initial Plans, whereupon such notice from Tenant shall automatically be nullified. In addition to the foregoing right of termination if the Substantial Completion Date has not occurred by the Delivery Date (as such Delivery Date may be extended pursuant to Section 6.4~~(e)~~) Landlord shall credit to Tenant the Fixed Rent on a per diem basis that would have been payable by Tenant to Landlord had the Substantial Completion Date occurred on the Delivery Date (as extended) for the period commencing as of the Delivery Date (as extended) and expiring as of the earlier to occur of the Termination Date or the Substantial Completion Date. If any Subsequent Completion Date with respect to any portion of the Premises included in Tenant's Additional Plans shall not be substantially completed (as defined in Section 6.2(c)) within _____ (__) months following approval of any such Tenant's Additional Plans (as

such period may be extended pursuant to Section 6.4) Tenant shall have the right to withdraw such space from the Leasable Premises by giving notice to Landlord, not later than thirty (30) after the expiration of such period (as so extended), of Tenant's desire so to do; and such space shall be deleted from the Leasable Premises and Landlord and Tenant shall have no further obligations with respect thereto _____ (__) days after the giving of such notice unless within such _____-day period Landlord substantially completion that portion of Landlord's Work contemplated by Tenant's Additional Plans, whereupon such notice from Tenant shall automatically be nullified. Such rights of termination, rent credit or withdrawal (as applicable) shall be Tenant's sole and exclusive remedy at law or in equity for Landlord's failure so to complete such Landlord's Work within such time(s).

(e) If there shall be installed in the Premises (either by Landlord at Tenant's sole cost and expense, or by Tenant at its sole cost and expense) a so-called fiber optics capability, Landlord covenants that through^{out} the Lease Term any tenant of the Building desiring such capability shall be required to obtain such capability from Tenant, provided that Tenant shall offer such capability at competitive rates.

(f) To facilitate the approval of all plans subject to this Section 6, each meeting and each material communication

between Tenant and _____ \the ~~"Architect"~~ with respect to Tenant's Initial Plans, ~~"Tenant's Additional Plans"~~ ~~(as hereinafter defined)~~ and Tenant's Fifth Floor Plans shall be preceded by reasonable prior notice thereof to Landlord, Landlord's general contractor and Landlord's architectural consultant, each of whom shall be entitled to attend such meetings and contribute to any such communications. During all stages of the preparation of all such aforementioned Plans (specifically including design development and schematic and final construction drawings stages) Landlord and Tenant shall meet weekly, or otherwise periodically as reasonably required, to discuss pricing of such Plans, including the excess costs which shall be borne by Tenant pursuant to Section 6.2(b) hereof.

(g) Landlord and Tenant each acknowledge that Landlord's approval of any such Plans shall solely be premised upon determination of the effect of the work to be performed thereunder on the structure, mechanical, electrical, plumbing and other systems and common areas of the Building and that Landlord's approval shall not imply conformity with applicable building codes and other laws, rules, regulations and ordinances relating to the construction of leasehold improvements, the responsibility for compliance therewith to remain with Tenant, Tenant further acknowledging that any delay in the occurrence of any Initial Completion Date, Substantial Completion Date or

Subsequent Completion Date as a result of the failure of any such Plans to be in compliance therewith shall constitute a "Tenant's Delay" for purposes of Section 6.4.

6.3 CONCLUSIVENESS OF LANDLORD'S PERFORMANCE. Except to the extent to which Tenant shall have given Landlord notice, not later than the end of the first full twelve-month period following the date on which such space was (or pursuant to Section 6.1 was deemed to be) substantially complete, of defects in Landlord's Work, Tenant shall have no claim that Landlord has failed to perform any of Landlord's Work. Except for Landlord's Work, the Premises are being leased in their condition as is without representation or warranty by Landlord. Tenant acknowledges that it has inspected the Premises and common areas of the Building and, except for Landlord's Work, have found the same satisfactory. In the event that any of Landlord's suppliers or contractors provide Landlord with any warranties regarding Landlord's Work (without imposing any obligation on Landlord to incur any expense to secure such warranties), Landlord agrees to grant to Tenant the right to enforce directly such warranties (to the extent permitted therein), except to the extent that such warranties cover items for which Landlord is responsible under this Lease. In the event such warranties do not permit the granting to Tenant of any right to enforce such warranties directly, Landlord shall use reasonable efforts to

enforce such warranties on the collective behalf of Landlord and Tenant.

6.4 TENANT'S DELAYS. (a) If a delay shall occur in the Substantial Completion Date or the Initial Substantial Completion Date or any Subsequent Completion Date as the result of: (i) any request by Tenant that Landlord delay in the commencement or completion of Landlord's Work for any reason; (ii) any material change by Tenant in any of Tenant's Initial Plans or Tenant's Additional Plans; (iii) failure to submit Tenant's Initial Plans by the Plan Submission Date, or to obtain Landlord's approval thereof by the Final Plans Date or to submit Tenant's Additional Plans by the applicable Additional Plans Date or to obtain Landlord's approval thereof within twenty (20) business days of the Additional Plans Date, or to execute the work letter requested by Landlord confirming excess costs of any such Tenant's Initial Plans or Tenant's Additional Plans; or (iv) any reasonably necessary displacement of any of Landlord's Work from its place in Landlord's construction schedule resulting from any of the causes for delay referred to in clauses (i), (ii) or (iii) of this paragraph and the fitting of such Work back into such schedule; then Tenant shall, from time to time and within ten (10) days after demand therefor, pay to Landlord for each day of such delay the amount of Fixed Rent and additional rent and other charges that would have been payable hereunder had the Substantial Completion Date (or the

Initial Completion Date or any Subsequent Completion Date, as applicable) occurred immediately prior to such delay.

(b) If a delay in the Substantial Completion Date, the Initial Completion Date or any Subsequent Completion Date, or if any substantial portion of such delay, is the result of a strike, lockout or other labor trouble, breakdown fire or other casualty or accident, governmental action, war or other public emergency or shortages of fuel, supplies, parts, or labor, or any other cause, whether similar or dissimilar, beyond Landlord's reasonable control (collectively "Force Majeure"), and such delay would not have occurred but for a delay described in paragraph (a), such delay shall be deemed added to the delay described in that paragraph.

(c) The delays referred to in paragraphs (a) and (b) are herein referred to collectively and individually as "Tenant's Delay".

(d) If, as a result of Tenant's Delay(s) relating to any portion of Landlord's Work to be performed pursuant to Tenant's Initial Plans, the Substantial Completion Date, the Initial Completion Date or any Subsequent Completion Date is delayed in the aggregate for more than nine (9) calendar months, Landlord may (but shall not be required to) at any time thereafter terminate this Lease, and if as a result of Tenant's Delay(s) relating to any portion of Landlord's Work to be performed pursuant to Tenant's Additional Plans any Subsequent Completion Date is delayed in the aggregate for more than nine (9) calendar months, Landlord may (but shall

not be required to) at any time thereafter withdraw such space from the Leasable Premises by giving written notice of such termination (or withdrawal, as applicable) to Tenant and thereupon this Lease shall terminate (or such space shall be deleted from the Leasable Premises, as applicable) without further liability or obligation on the part of either party, except that Tenant shall pay to Landlord the cost theretofore incurred by Landlord in performing Landlord's Work.

(e) The Delivery Date shall automatically be extended for the period of any delays caused by Tenant's Delay(s) or Force Majeure.

6.5 DISPUTES. Any dispute arising under this Article 6 shall be determined by arbitration in Boston, Massachusetts, in accordance with the commercial arbitration rules of the American Arbitration Association, except that there shall be only one arbitrator who shall be a disinterested party and who shall be a registered architect having at least ten (10) years of experience in the supervision of construction of major office buildings in Massachusetts. The award in such arbitration shall be final and binding on the parties and judgment may be rendered upon it in any court of competent jurisdiction. If such dispute concerns the occurrence of the Substantial Completion Date, Initial Completion Date, or any Subsequent Completion Date then, pending such determination, such Date(s) shall be deemed to have occurred on the date(s) claimed by Landlord and if it shall be determined that any

such Date did not occur or occurred after the date claimed by Landlord, Landlord shall pay to Tenant an amount equal to any overpayment of Fixed Rent or additional rent resulting from such determination, plus interest on such amount at four percent over the so-called based rate in effect from time to time at the First National Bank of Boston.

6.6 ACCESS BEFORE COMMENCEMENT DATE. (a) At such time as, in Landlord's sole judgment, Landlord's Work has proceeded to such point where Tenant may work in the Leasable Premises (or such portion thereof as Landlord shall so indicate) without interfering with Landlord's Work, Landlord shall so notify Tenant and from and after such date of notification Tenant and its engineers and contractors shall have access to the Leasable Premises (or such portion) for the purpose of installing equipment and fixtures. Such access shall include the use of the elevators available for construction purposes on the same terms and conditions as established by Landlord's general contractor, including, without limitation, at least forty-eight hours' prior notice of any such use and payment of use charges therefor.

(b) In connection with such access, Tenant agrees (i) to cease promptly upon request of Landlord any activity or work which shall interfere with or delay any work on the Building or the Leasable Premises (unless, with respect to the Leasable Premises, Tenant shall agree that such delay shall be deemed a Tenant's Delay), (ii) to comply and cause

its engineers and contractors to comply promptly with all reasonable procedures and regulations prescribed by Landlord from time to time for coordinating Landlord's Work and other work being conducted in the Building and the work being performed by Tenant, each with the other and with any other activity or work in the Building, and (iii) to use only such labor as shall be in strict compliance with Article 32 of the Ground Lease.

(c) Such access by Tenant shall be deemed to be subject to all of the applicable provisions of the Lease (specifically including, without limitation, the insurance obligations contained in Section 4.2 and Section 9.2), except that (i) there shall be no obligation on the part of Tenant solely because of such access to pay any Fixed Rent or additional rent under the Lease for any period prior to the Commencement Date or any Subsequent Completion Date, as the case may be (except under paragraph 6.4(a) hereof), and (ii) Tenant shall not be deemed thereby to have taken or accepted possession of the Leasable Premises or any portion thereof solely because of such access.

(d) If Tenant fails or refuses to comply or cause its engineers and contractors to comply with any of the obligations described or referred to in subparagraphs 6.6(a), 6.6(b) and 6.6(c), then upon notice to Tenant, Landlord may require Tenant to cease the performance of any work being performed by Tenant until the Substantial Completion Date occurs.

6.7 REPAIRS TO BE MADE BY LANDLORD. Except as otherwise provided in this Lease, Landlord agrees to keep the common areas of the Buildings (including the foundation, structural elements, roofing and windows and mechanical, electrical, and plumbing systems), insofar as they affect the Premises in good order, condition and repair, reasonable use and wear thereof and damage by fire or other casualty or as a consequence of the exercise of the power of eminent domain excepted.

Landlord shall in no event be responsible to Tenant for any condition in the Premises or the Building caused by any act or neglect of Tenant or any contractor, agent, employee or invitee of Tenant, or anyone claiming by, through or under Tenant.

Landlord shall never be liable for any failure to make repairs which, under the provisions of this Section 6.7 or elsewhere in this Lease, Landlord has undertaken to make unless: (a) Tenant has given notice to Landlord of the need to make such repairs as a result of a condition in the Building or in the Premises requiring any repair for which Landlord is responsible or Landlord has independent knowledge of such need; and (b) Landlord has failed to commence to make and diligently prosecute the completion of such repairs within a reasonable time in the circumstances after receipt

of such notice (or independent knowledge) if such repairs are, in fact, necessary.

6.8 TENANT'S AGREEMENT. Tenant agrees that Tenant will keep the Premises and every part thereof (except to the extent of Landlord's obligations pursuant to Section 6.7) in good order and repair and in a neat and clean condition throughout the Lease Term, excepting only damage by fire or other casualty or as a consequence of the exercise of the power of eminent domain, and subject to reasonable wear and tear, and shall surrender the Premises, at the expiration or other termination of the term, in such condition. Without limitation, Tenant shall maintain and use the Premises in accordance with all applicable laws, ordinances, governmental rules and regulations, directions and orders of officers of governmental agencies having or claiming to have jurisdiction and in accordance with the requirements of Tenant's insurers, and shall, as of the occupancy by Tenant of any portion(s) of the Premises, at Tenant's own expense, obtain and maintain in effect all permits, licenses and the like required by applicable law with respect to such portion(s). Tenant shall not permit or commit any waste, and Tenant shall be responsible for the cost of repairs which may be made necessary by reason of damage to any areas in the Building, including, without limitation, the Premises, by Tenant, Tenant's contractors or Tenant's agents, employees or invitees, or anyone claiming by, through or under Tenant.

Landlord may replace as needed any bulbs and ballasts in the Premises during the Lease Term at Tenant's cost and expense, or Landlord may require Tenant to replace the same, at Tenant's cost and expense.

If repairs are required to be made by Tenant pursuant to the terms hereof, Landlord may demand that Tenant make the same forthwith, and if Tenant refuses or neglects to commence such repairs and complete the same with reasonable dispatch after such demand, Landlord may (but shall not be required to do so) but only if, in Landlord's reasonable judgment Tenant's failure to commence or complete the same as aforesaid may pose an unreasonable risk to which Landlord may therefor be exposed make or cause such repairs to be made, at Tenant's sole cost and expense, and shall not be responsible to Tenant for any loss or damage that may accrue to Tenant's stock or business by reason thereof except to the extent resulting from the gross negligence of Landlord, its agents or employees.

Any of Tenant's trade furniture and equipment and other personal property which shall remain in the Building or on the Premises after the expiration or termination of the Lease Term shall be deemed conclusively to have been abandoned, and either may be retained by Landlord as its property or may be disposed of in such manner as Landlord may see fit, at Tenant's sole cost and expense.

6.9 FLOOR LOAD; HEAVY MACHINERY. Tenant shall not place a load upon any floor in the Premises exceeding the lesser of (a) the floor load per square foot of area which such floor was designed to carry as certified by Landlord's architect and (b) the floor load per square foot of area which is allowed by law. Landlord reserves the right to prescribe the weight and position of all business or medical machines, mechanical equipment, including scales, and electrical machines which shall be placed so as to distribute the weight. Business, medical and electrical machines and mechanical equipment shall be placed and maintained by Tenant at Tenant's expense in settings sufficient, in Landlord's reasonable judgment, to absorb and prevent vibration, noise and annoyance. Tenant shall not move any safe, heavy machinery, heavy equipment, freight, bulky matter or fixtures into or out of the Building without Landlord's prior consent, which approval shall not be unreasonable withheld or delayed.

If such safe, machinery, equipment, freight, bulky matter or fixtures requires special handling, Tenant agrees to employ only persons holding a Master Rigger's License to do said work, and that all work in connection therewith shall comply with applicable laws and regulations. Any such moving shall be at the sole risk and hazard of Tenant and Tenant will exonerate, indemnify and save Landlord harmless against and from any liability, loss, injury, claim or suit resulting

directly or indirectly from such moving. Tenant shall schedule such moving at such times as Landlord shall reasonably require for the convenience of the normal operations of the Building.

ARTICLE 7

SERVICES TO BE FURNISHED BY LANDLORD AND UTILITY CHARGES

7.1 LANDLORD'S SERVICES. Landlord covenants during the Lease Term during Normal Building Operating Hours:

- (1) to provide heating and air-conditioning in the Premises during the normal heating and air-conditioning seasons for general office uses (as opposed to special laboratory uses) in accordance with the specifications therefor in Exhibit C;
For other uses requiring specification in excess of those required for general office use
- (2) to furnish hot and cold water for ordinary office, toilet, bathroom and drinking purposes (as opposed to special laboratory uses). If Tenant requires water for any other purpose, Tenant shall pay the Landlord an appropriate charge stipulated by Landlord to reimburse Landlord for the cost of such water and related sewer use charge (including a charge to reimburse Landlord for the cost of metering

Tenant's usage), provided that in no event shall such charge exceed the amount which Tenant would have had to pay to the public utility directly for the water requirements of Tenant in the Premises;

- (3) to furnish non-exclusive passenger elevator service;
- (4) to provide at Tenant's sole cost and expense non-exclusive freight elevator service, subject to reasonable scheduling by Landlord;
- (5) to furnish, through Landlord's employees or independent contractors, cleaning, maintenance and landscaping of the common areas of the Building (including snow removal, to the extent necessary to maintain reasonable access to the Building) and common area security services and Building management, all in a fashion generally commensurate with other first-class office buildings in the metropolitan Boston area; and
- (6) to furnish, through Landlord's employees or independent contractors, provided the same may be reasonable and conveniently provided by Landlord, additional Building services upon

reasonable advance request of Tenant at rates from time to time established by Landlord (which rates shall be uniform throughout the Building and shall be comparable with rates for similar services, if such exist, at similar structures in the downtown Boston area) to be paid by Tenant. Tenant hereby agrees to pay the cost of such services as additional rent upon demand by Landlord.

7.2 PAYMENT OF UTILITY CHARGES. With respect to electricity for lighting and equipment and other energy costs (specifically including, without limitation, special heating, ventilating and air-conditioning required for the Laboratory Space) in the Premises, the same shall be separately metered (if the utility serving the Premises shall agree to such separate metering, which separate metering shall be accomplished at Tenant's sole cost and expense) and Tenant agrees to pay all bills therefor promptly to the utility company furnishing the same and, if requested by Landlord, provide Landlord with evidence of such payment. If such separate metering is not available with respect to any portion of the Premises, Landlord shall (in Landlord's sole discretion which may be re-determined at any time during the term hereof) either (a) install (at Tenant's sole cost and expense) so-called "check meters" which shall measure the amount of electricity furnished to that portion of the

AS part of
the construction
of the improve-
ments to the
Premises pursuant
to Article 6

Premises to which such check meter shall relate, or (b) include the total cost of electricity furnished to spaces leased or intended to be

(leased to tenants in Operating Expenses. In addition to the foregoing, Landlord may elect to have installed check meters with respect to only certain portions of the Premises and not to other portions, and a suitable adjustment to Operating Expenses shall be made. To the extent that Landlord shall elect to install such check meters, Tenant shall pay to Landlord as an additional charge, for electricity supplied to the portion of the Premises to which such check meters shall relate, an amount equal to the Building Average Rate (as hereinafter defined) multiplied by the number of kilowatt-hours of electricity used in such portion of the Premises during the period for which such payment is being made. Such payments shall be made within thirty (30) days after receipt of a statement setting forth the number of kilowatt-hours used in such portion of the Premises during such period, the Building Average Rate, and the computation of Tenant's payment. If Tenant so requests within sixty (60) days after the receipt of any such statement, Landlord shall make available to Tenant, during Normal Building Operating Hours, copies of the electricity bills for the Buildings relative to such statement so that Tenant may verify Landlord's computations. Landlord shall advise Tenant in advance of the time Landlord will be reading Tenant's meter(s), and Tenant or its representative shall have the right to accompany

Landlord's representative for the purpose of verifying Landlord's reading. For purposes hereof, the term "Building Average Rate" shall mean the average cost to Landlord of supplying one (1) kilowatt-hour of electricity to the Building, and such Rate shall be determined by dividing (i) the electric bill for the Building for the period(s) covered by Tenant's payment by (ii) the number of kilowatt-hours of electricity supplied to the Building during such period. In the event that during the term of this Lease, the Building shall be metered for more than one rate, then to the extent that charges for electricity provided to the Premises (or certain portions thereof) shall be determined by check-metering, the Premises shall similarly be check metered to measure kilowatt-hours at each rate applicable to the Premises. Tenant agrees that it shall not exceed the electricity load for which the Building was designed and that such load shall not exceed the maximum from time to time permitted under applicable governmental regulations.

7.3 ENERGY CONSERVATION. Notwithstanding anything to the contrary in this Article 7 or elsewhere in this Lease, Landlord shall have the right to institute for the Building such policies, programs and measures as may be necessary or desirable, in Landlord's discretion, for the conservation and/or preservation of energy or energy related services, or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary,

provided that Landlord shall use reasonable efforts to limit the effect of such measure or programs on Tenant's operations at the Premises, to the extent practicable.

ARTICLE 8

REAL ESTATE TAXES AND OTHER EXPENSES

8.1 TENANT'S SHARE OF REAL ESTATE TAXES.

- (a) For the purposes of this Section:
 - (i) The term "Tax Period" shall mean the period during which Taxes (as hereinafter defined) are required under applicable law. Thus, under the law presently in effect in The Commonwealth of Massachusetts, Tax Period means the period from July 1 of a calendar year to June 30 of the subsequent calendar year. Suitable adjustment in the determination of Tenant's obligation under this Section 8.1 shall be made in the computation for any Tax Period which is greater than or less than twelve (12) full calendar months.
 - (ii) The term "Taxes" shall mean all real estate taxes and assessments (which term, for

purposes of this provision, shall include water and sewer use charges and betterment assessments), special or otherwise, levied or assessed upon or with respect to the Building and the Lot or any part thereof and ad valorem taxes for any personal property of Landlord used in connection therewith, and shall specifically include any sums paid or payable by Landlord pursuant to Article 4 of the Ground Lease, entitled Payment of Taxes and Other Charges. Should the Commonwealth of Massachusetts, or any political subdivision thereof, or any other governmental authority having or claiming to have jurisdiction over the Building, (1) impose a tax, assessment, charge or fee, which Landlord shall be required to pay, by way of substitution for or as a supplement to such real estate taxes and ad valorem personal property taxes, or (2) impose an income or franchise tax or a tax on rents in substitution for or as a supplement to a tax levied against the Building or the Lot any part thereof and/or the personal property used in connection with the Building or the Lot or any part thereof, all such taxes, assessments, fees or charges (hereinafter defined as "in lieu of taxes")

shall be deemed to constitute Taxes hereunder. Taxes shall also include, in the year paid, all reasonably incurred fees and costs incurred by Landlord in seeking to obtain a reduction of, or a limit on the increase in, any Taxes, regardless of whether any reduction or limitation is obtained. Except as hereinabove provided with regard to "in lieu of taxes," Taxes shall not include any inheritance, estate, succession, transfer, gift, franchise, net income or capital stock tax or so-called "linkage" payments to the City of Boston.

(b) In the event that the Taxes imposed with respect to the Building and the Lot shall be greater during any Tax Period than the Base Tax Amount:

(i) Tenant shall pay to Landlord, as additional rent, Tenant's Proportionate Share of the amount by which the Taxes imposed with respect to the Building and the Lot for such Tax Period exceed the Base Tax Amount, apportioned for any fraction of a Tax Period contained within the Term and also apportioned to reflect any fluctuation during such period in Tenant's Proportionate Share, and

(ii) Landlord shall submit to Tenant a statement, certified to by a responsible officer of Landlord or the Building's management company, setting forth the amount of such additional rent, and within ten (10) days after the delivery of such statement (whether or not such statement shall be timely), Tenant shall pay to Landlord the payment required under subparagraph (i) above. So long as Taxes shall be payable in installments under applicable law, Landlord may submit such statements to Tenant in similar installments. The failure by Landlord to send any statement required by this subparagraph shall not be deemed to be a waiver of Landlord's right to receive such additional rent.

(c) Tenant's share of Taxes shall be equitably adjusted for and with respect to any portion of the Term which does not include an entire Tax Period.

(d) If Tenant is obligated to pay any additional rent as aforesaid with respect to any Tax Period or fraction thereof during the Term, and if, further, the holder of any mortgage on the Building shall require Landlord to make tax payments to it monthly, then Tenant shall pay, as additional

rent, on the first day of each month of the next ensuing Tax Period, estimated monthly tax escalation payments in an amount from time to time estimated by Landlord to be sufficient to provide Landlord, in the aggregate, a sum equal to Tenant's Proportionate Share of the Taxes in excess of the Base Tax Amount, ten (10) days, at least, before the day on which payments on account of Taxes by Landlord would become delinquent. Estimated monthly tax escalation payments for each ensuing Tax Period shall be made retroactively to the first day of the Tax Period in question. Following the close of each Tax Period for and with respect to which Tenant is obligated to pay any additional rent as aforesaid, Landlord shall submit the statement set forth in paragraph (b)(ii) of this Section 8.1 and in the event the total of the estimated monthly tax escalation payments theretofore made by Tenant to Landlord for such Tax Period does not equal Tenant's Proportionate Share of the Taxes in excess of the Base Tax Amount for such Tax Period, Tenant shall pay any deficiency to Landlord as shown by such statement within ten (10) days after the delivery of such statement (whether or not such statement shall be timely). If the total of the estimated monthly tax escalation payments paid by Tenant during such Tax Period exceed the actual amount of Tenant's Proportionate Share of the Taxes in excess of the Base Tax Amount for said Tax Period, Landlord shall credit the amount of such overpayment against subsequent obligations of Tenant under this Lease (or refund such overpayment if the Term has ended

and Tenant has no further obligations to Landlord under the Lease).

(e) When the applicable tax bill is not available prior to the end of the Term, then a tentative computation shall be made by Landlord on the basis of the Taxes for the next prior Tax Period, with a final adjustment to be made between Landlord and Tenant promptly after Landlord shall have received the applicable tax bill.

(f) Payments by Tenant to Landlord on account of Taxes shall not be considered as being held in trust, in escrow or the like, by Landlord; it being the express intent of Landlord and Tenant that Tenant shall in no event be entitled to receive interest upon, or any payments on account of earnings or profits derived from, such payments by Tenant to Landlord. Landlord shall have the same rights and remedies for the nonpayment by Tenant of any amounts due on account of such Taxes as Landlord has hereunder for the failure of Tenant to pay the Fixed Rent.

(g) Tenant acknowledges that, to the extent Taxes exceed Base Taxes, Tenant's obligations on account of Taxes will increase as Taxes increase; and therefore agrees actively to cooperate with Landlord in any reasonable effort to prosecute or apply for abatements or adjustments of Taxes

before any governmental agency having actual or effective jurisdiction over the same.

8.2 TENANT'S SHARE OF OPERATING EXPENSES.

- (a) For the purposes of this Section:
 - (i) The term "Operating Year" shall mean each successive fiscal year (as adopted by Landlord) in which any part of the Term of this Lease shall fall.
 - (ii) The term "Operating Expenses" shall mean all expenses, costs and disbursements of every kind and nature, paid or incurred by Landlord in operating, managing, repairing, cleaning and maintaining the Premises, the Building, the Lot and their appurtenances as the same are incurred in the operation of them, including, but without limitation: premiums for fire, casualty, rental income, liability and such other insurance as Landlord may from time to time maintain; security expenses (specifically including, without limitation, payments made pursuant to Section 34.2 of the Ground Lease to contribute to a fund to provide security services within the so-called

Historic Monument Parcel of the Charlestown Navy Yard); compensation and all fringe benefits, workmen's compensation insurance premiums and payroll taxes paid by Landlord to, for or with respect to all persons engaged in operating, maintaining, managing, repairing or cleaning; fuel costs; steam, water, sewer, electric, gas, telephone, and other utility charges not otherwise billed to tenants by Landlord or the utility; costs of lighting, ventilating, (including maintaining and repairing ventilating fans and fan rooms), heating and air-conditioning; costs of repairing and maintaining fire protection systems; costs of building and cleaning supplies and equipment (including rental); cost of maintenance, cleaning and repairs; cost of snow plowing or removal, or both, and care of interior and exterior landscaping (specifically including, without limitation, payments made pursuant to Section 34.1 of the Ground Lease to contribute to a fund to provide maintenance to the public park and public spaces within the Historic Monument Parcel); payments to independent contractors under contracts for cleaning, operating, management, maintenance and/or repair (which

payments may be to affiliates of Landlord); and all other expenses paid in connection with cleaning, operating, management, maintenance and repair. Further, if during any portion of the Operating Year for which Operating Expenses are being computed, less than all of the rentable area of the Building was occupied by tenants or if Landlord is not supplying all tenants with the services and utilities being supplied hereunder, actual Operating Expenses incurred shall be reasonably projected by Landlord on an item by item basis to the estimated Operating Expenses that would have been incurred if the Building were fully occupied for such Year and such services and utilities were being supplied to all tenants, and such projected amount shall, for the purposes hereof, be deemed to be the Operating Expenses for such Year. Operating Expenses shall not, however, include the following:

- (A) Costs of alterations of any tenant's premises for a particular tenant and not for the benefit of the Building or any group of tenants therein;

- (B) Principal or interest payments on loans secured by mortgages or trust deeds on the Building and/or on the Lot or Landlord's interest therein;
- (C) The aggregate of all expenses, costs and disbursements paid or incurred by Tenant in (1) cleaning the Premises, (2) providing a security system for the Premises (that is, a so-called ADT security system or the equivalent, Tenant agreeing that the costs of any security guards to be provided for the Premises shall be borne solely and entirely by Tenant and such guards shall be employed and/or contracted for by Tenant exclusively), and (3) providing electricity to the Premises (but only to the extent separately metered or provided by Tenant's own electric generators);
- (D) Any so-called "linkage" payments to the City of Boston or rent under Article 3 of the Ground Lease (but specifically including, without limitation, all costs incurred by Landlord for bus subsidization, the fair market rent value

of the office space provided to the Neighborhood Development Employment Agency ("NDEA") and sums provided to the NDEA for affirmative action activities, all as provided in that certain First Source Agreement (including Exhibit A thereto) attached to the Ground Lease as Exhibit D thereto;

- (E) Any services provided to any tenant (other than Tenant) to any materially greater extent than those provided to Tenant; or
- (F) Capital expenditures except for an annual charge-off for: (1) expenditures for capital items required to be made by federal, state or local authorities pursuant to law, regulation or ordinance not in effect as of the Commencement Date; (2) expenditures for capital items which replace obsolete equipment or are intended to provide, at the date of acquisition or installation of the capital item, a reduction in Operating Costs. (Annual charge-off is defined as and shall be determined by dividing the

original cost of a capital item or a capital expenditure made during the Lease Term by the number of years of useful life of the capital item so acquired; and the useful life shall be determined by Landlord's accountants in accordance with generally accepted accounting principles in effect at the time of the capital expenditure or acquisition of the capital item.)

(b) After the expiration of each Operating Year, Landlord shall furnish Tenant with a statement certified to by a responsible officer of Landlord or the Building's management company, setting forth the Operating Expenses for such Operating Year. Such statement shall be accompanied by a computation of the amount, if any, of the additional rent payable to Landlord pursuant to this Section.

(c) In the event the Operating Expenses during any Operating Year shall be greater than the Base Operating Expenses, Tenant shall pay to Landlord, as additional rent, an amount equal to Tenant's Proportionate Share of the excess of the Operating Expenses for each Operating Year over and above the Base Operating Expenses. Tenant acknowledges that Base Operating Expenses are not intended to reflect an estimate of Operating Expenses for the Building for any

calendar year, that such Base solely reflects the amount of Operating Expenses for which Tenant shall not be obliged to contribute based upon Tenant's Proportionate Share, and further that it is likely that Tenant shall be required to pay additional rent on account of Operating Expenses exceeding Base Operating Expenses for the entire Term.

(d) Said additional rent shall, with respect to the Operating Years in which the Commencement Date and the expiration of termination of this Lease shall occur, be adjusted to that proportion thereof as the portion of the Lease Term falling within such Operating Year bears to the full Operating Year and shall also be adjusted to reflect any fluctuation during any such Operating Year (or such portion thereof) in Tenant's Proportionate Share. If Landlord shall change its fiscal year, appropriate adjustment shall be made for any Operating Year less than twelve months which may result.

(e) Any additional rent payable by Tenant under this Section 8.2 shall be paid within ten (10) days after Landlord has furnished Tenant with the statement described above.

(f) If with respect to any Operating Year or fraction thereof during the Term, Tenant is (or Landlord shall reasonably expect Tenant to be) obligated to pay any additional rent as aforesaid, then Tenant shall pay, as

additional rent, on the first day of each month of the next ensuing Operating Year, estimated monthly operating escalation payments in an amount from time to time estimated by Landlord to be sufficient to cover, in the aggregate, a sum equal to Tenant's Proportionate Share of Operating Expenses in excess of the Base Operating Expenses for the next ensuing Operating Year. Estimated monthly operating escalation payments for each ensuing Operating Year shall be made retroactively to the first day of the Operating Year in question. If the estimated monthly operating escalation payments theretofore made for such Operating Year by Tenant exceed Tenant's Proportionate Share of the Operating Expenses in excess of the Base Operating Expenses for such Operating Year according to the statement furnished Tenant by Landlord pursuant to paragraph (b) of this Section 8.2, Landlord shall credit the amount of such overpayment against subsequent obligations of Tenant under this Lease (or refund such overpayment if the Term has ended and Tenant has no further obligation to Landlord under the Lease); but if Tenant's Proportionate Share of the Operating Expenses in excess of the Base Operating Expenses for said Operating Year is greater than the estimated monthly operating escalation payments theretofore made on account of such period, Tenant shall make suitable payment to Landlord within the time set forth in paragraph (e) of this Section 8.2.

ARTICLE 9

INDEMNITY AND PUBLIC LIABILITY INSURANCE

9.1 TENANT'S INDEMNITY. To the maximum extent this agreement may be made effective according to law, Tenant agrees to indemnify and save harmless Landlord from and against, and to defend with counsel approved by Landlord, all claims of whatever nature arising from any act, omission or negligence of Tenant, or Tenant's contractors, licensees, invitees, agents, servants or employees, or arising from any accident, injury or damage whatsoever caused to any person, or to the property of any person, occurring within the Premises, or use made or thing occurring on the Premises, after the first entry by Tenant on the Premises, and until the end of the Lease Term and thereafter, so long as Tenant is in occupancy of any part of the Premises, or arising from any accident, injury or damage occurring outside of the Premises, where such accident, damage or injury results or is claimed to have resulted from an act or omission on the part of Tenant or Tenant's agents, employees, independent contractors or invitees.

This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

9.2 PUBLIC LIABILITY INSURANCE. Tenant agrees to maintain in full force and effect from the date on which Tenant first enters the Premises for any reason (even if before the Commencement Date, ^{pursuant to Section 6.6} throughout the Lease Term, and thereafter so long as Tenant is in occupancy of any part of the Premises, a policy of Comprehensive General Liability insurance in accordance with the broadest form of such coverage as is available from time to time in The Commonwealth of Massachusetts. The minimum limits of liability of such insurance shall be \$___ million per occurrence, Bodily Injury Liability (including death), and \$___ million per occurrence, Property Damage Liability, or shall be for such higher limits, if directed by Landlord, as are customarily carried in that area in which the Building is located upon property similar to the Building.

Tenant further agrees to maintain a Workers' Compensation and Employers' Liability Insurance policy. The limit of liability as respects Employers' Liability coverage shall be no less than the greater of (a) statutory limits therefor and (b) \$100,000 per accident.

Except for Workers' Compensation and Employers' Liability coverage, Tenant agrees that Landlord (and such other persons as are in privity of estate with Landlord as may be set out in notice from time to time, specifically including, without limitation, the holder(s) of any

mortgage(s) or the lessor under any ground lease entitled to notice pursuant to Section 13.4) shall be named as additional insureds. Further, all policies shall be noncancellable and nonamendable with respect to Landlord and Landlord's said designees without 30 days' prior written notice to Landlord. A duplicate original or a certificate of insurance evidencing the above agreements shall be delivered to Landlord upon the execution of this Lease.

9.3 TENANT'S RISK. To the maximum extent this agreement may be made effective according to law, Tenant agrees to use and occupy the Premises and to use such other portions of the Building as Tenant is herein given the right to use at Tenant's own risk; and Landlord shall have no responsibility or liability for any loss of or damage to the fixtures which are personal property of Tenant or any other personal property of Tenant for any reason whatsoever. Tenant shall carry "all-risk" property insurance on a "replacement cost" basis (including so-called improvements and betterments) covering all Tenant's furniture, furnishings, equipment and fixtures. The provisions of this Section shall be applicable from and after the execution of this Lease and until the end of the Lease Term, and during such further period as Tenant may use or be in occupancy of any part of the Premises or of the Building.

9.4 INJURY CAUSED BY THIRD PARTIES. To the maximum extent this agreement may be made effective according to law, Tenant agrees that Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the Building adjacent to or connecting with the Premises or any part of the Building, or otherwise.

ARTICLE 10

LANDLORD'S ACCESS TO PREMISES

10.1 LANDLORD'S RIGHT OF ACCESS. Landlord shall have the right to enter the Premises at all reasonable business hours and after normal business hours for the purpose of inspecting and (upon reasonable prior notice, which need not be in writing and need not be given in an emergency) making repairs to the same, and Landlord shall also have the right to make access available at all reasonable business hours and upon reasonable prior notice (which notice need not be in writing) to prospective or existing mortgagees, insurers ground lessors or purchasers of any part of the Building. Landlord shall exercise all of its rights under this Section 10.1 with due regard for Tenant's legitimate security requirements.

10.2 EXHIBITION OF SPACE TO PROSPECTIVE TENANTS. For a period of twelve (12) months prior to the expiration of the Lease Term, Landlord may have reasonable access to the Premises at all reasonable hours for the purpose of exhibiting the same to prospective tenants, and may post suitable notice on the Premises advertising the same for rent.

ARTICLE 11

FIRE, EMINENT DOMAIN, ETC.

11.1 ABATEMENT OF RENT. If the Premises shall be damaged by fire or casualty, the Fixed Rent and the additional rent payable by Tenant under Article VIII hereof shall abate or be reduced proportionately for the period in which, by reason of such damage, there is material interference with the operation of Tenant's use of the Premises, having regard to the extent to which Tenant may be required to discontinue Tenant's use of the Premises, but such abatement or reduction shall end if and when Landlord shall have substantially restored the Premises (exclusive of any of (i) Tenant's fixtures, furnishings, equipment and (ii) work performed therein by Tenant) to substantially the condition which the Premises were in prior to such damage. In no event shall Landlord be obligated in connection with the restoration of the Premises, as aforesaid, to expend an amount in excess of the net proceeds of insurance recovered

with respect thereto it being agreed that, ~~X~~ Landlord shall carry insurance for fire and extended coverage in an amount equal to not less than Landlord's obligations with respect to fire and extended coverage insurance under the Ground Lease. In the event the Premises shall be damaged by fire or other casualty resulting from the act or neglect of Tenant, its agents, contractors, employees or invitees, and this Lease shall not be terminated by Landlord as a result of such damage, Tenant shall not be released from any of its obligations hereunder including, without limitation, its duty to pay the Fixed Rent and the additional rent payable by Tenant under Article 8 hereof without abatement or reduction, except to the extent (and for the period of time) that Landlord's rental interruption insurance (if then carried by Landlord) shall compensate Landlord for loss of rent payable by Tenant hereunder.

If any part of the Building shall be taken by any exercise of the power of eminent domain, as a result of which there is material interference with the operation of Tenant's use of the Premises, then the Fixed Rent and the additional rent payable by Tenant under Article 8 hereof shall be justly and equitably abated and reduced according to the nature and extent of the loss of use thereof suffered by Tenant.

11.2 LANDLORD'S RIGHT OF TERMINATION. If the Premises or the Building shall be substantially damaged by fire or

casualty (the term "substantially damaged" meaning damage of such a character that the same cannot, in the ordinary course, reasonably be expected to be repaired within six (6) months from the time that repair work would commence), or any part of the Building or the Lot shall be taken by an exercise of the right of eminent domain, then Landlord shall have the right to terminate this Lease (even if the Landlord's entire interest in the Premises may have been divested) by giving notice of Landlord's election so to do, whereupon this Lease shall terminate as of the date of such notice with the same force and effect as if such date were the date originally established as the expiration date hereof. If, however, the Premises or the Building shall not have been substantially damaged as aforesaid or the Premises or the Building have been substantially damaged as aforesaid or any part of the Building or the Lot shall be taken by an exercise of the right of eminent domain, and Landlord shall elect not to terminate this Lease within ninety (90) days after the event giving rise to such right of termination shall have occurred, Landlord shall use due diligence to repair and restore the Premises and the Building, as necessary, to proper condition for Tenant's use and occupation except that (i) Landlord shall only be required to restore the same to the extent required by the Ground Lease, (ii) ^{Landlord} shall not be obligated to spend more than the net proceeds of any insurance recovered with respect to such damage or destruction or any taking award recovered with respect thereto, as the case may be, it

being agreed that Landlord shall use best efforts to obtain all proceeds available from the holder thereof (i.e., Landlord's mortgagee or insurer or the BRA); and (iii) Tenant, and not Landlord, shall pay for all improvements and all costs in excess of the contribution Landlord shall have made (either pursuant to Exhibit C ~~if the Commencement Date~~ shall have been determined pursuant to Section ____ or by way the per square foot contribution paid to Tenant by Landlord if the Commencement Date shall have been determined pursuant ~~to Section ____~~).

Notwithstanding any of the foregoing to the contrary, Tenant may terminate this Lease, following a fire or casualty not resulting from the act or neglect of Tenant, its agents, contractors, employees, or invitees if (i) in Landlord's reasonable estimation, the damage caused by such fire or casualty cannot reasonably be expected to be completed within eighteen months from the time that repair work would commence or (ii) such fire or casualty occurs in the last year of ^{the} ~~any~~ Term of this Lease.

11.3 AWARD. Landlord shall have and hereby reserves and accepts, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Building, the Lot and the leasehold interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking, damage or destruction, as aforesaid, and by way of confirming the foregoing, Tenant hereby grants and assigns,

and covenants with Landlord to grant and assign to Landlord all rights to such damages or compensation. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings a claim for the value of any Tenant's fixtures installed in the Premises by Tenant at Tenant's expense and for relocation expenses, provided that such action shall not affect the amount of compensation otherwise recoverable by Landlord from the taking authority. Notwithstanding the foregoing to the contrary, Landlord shall reimburse Tenant promptly following its receipt of such damages and compensation, the product of (a) a fraction, the numerator of which shall be Tenant's unamortized costs of improvements installed in the Premises in compliance with this Lease at Tenant's expenses and the denominator of which shall be the fair market value of the Building multiplied by (b) the award received by Landlord.

ARTICLE 12

LANDLORD'S REMEDIES

12.1 EVENTS OF DEFAULT. Any one of the following shall be deemed to be an "Event of Default":

- (A) Failure on the part of Tenant to pay Fixed Rent, additional rent or other charges for which provision is made herein on or before the date on which the same become due and payable and such

failure continues for ten (10) business days after Landlord has sent to Tenant notice of such default, provided the same is received in the ordinary course.

- (B) With respect to a non-monetary default under this Lease, failure of Tenant to cure the same within thirty (30) days following notice from Landlord to Tenant of such default or, if such default cannot reasonably be cured within the thirty (30) day period, the failure of Tenant to commence such cure within such period and thereafter diligently to prosecute it to completion.
- (C) The commencement of any of the following proceedings, with such proceeding not being dismissed within sixty (60) days after it has begun: (i) the estate hereby created being taken on execution or by other process of law; (ii) Tenant being judicially declared bankrupt or insolvent according to law; (iii) an assignment being made of the property of Tenant for the benefit of creditors; (iv) a receiver, guardian conservator, trustee

in involuntary bankruptcy or other similar officer being appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction; or (v) a petition being filed for the reorganization of Tenant under any provisions of the Bankruptcy Act now or hereafter enacted.

- (D) Tenant filing a petition for reorganization or for rearrangements under any provisions of the Bankruptcy Act now or hereafter enacted, and providing a plan for a debtor to settle, satisfy or to extend the time for the payment of debts.
- (E) Execution by Tenant of an instrument purporting to assign Tenant's interest under this Lease or sublet the whole or a portion of the Premises to a third party without Tenant having first obtained Landlord's prior express consent to said assignment or subletting where such consent is required pursuant to the other provisions of this Lease.

(F) An Event of Default shall occur under that certain lease (the "Building 199 Lease") dated as of the date hereof by and between Navy Yard Parking Associates Limited Partnership, a Massachusetts limited partnership and Tenant.

(G) An Event of Default of the kind set forth in clauses (A) or (B) above shall occur and if either (x) Tenant shall cure such Default within the applicable grace period or (y) Landlord shall, in its sole discretion, permit Tenant to cure such Default after the applicable grace period has expired, and an event which would constitute a similar Default after the applicable grace period shall occur more than twice within the next 365 days, whether or not such similar Default is cured within the applicable grace period.

12.2 REMEDIES. Should any Event of Default occur then, notwithstanding any license of any former breach of covenant or waiver of the benefit hereof or consent in a former instance, Landlord lawfully may, in addition to any remedies otherwise available to Landlord, immediately or at any time thereafter, after having given Tenant thirty (30) days' prior

written notice of its intention to exercise its rights under this Section 12.2 (except in the case of an emergency, in which event the Landlord shall not be required to give any such notice), enter into and upon the Premises or any part thereof in the name of the whole and repossess the same as of Landlord's former estate, and expel Tenant and those claiming by, through or under it and remove its or their effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant and/or Landlord may send notice to Tenant terminating the Term of this Lease; and upon the first to occur of: (i) entry as aforesaid; or (ii) the fifth (5th) day following the mailing of such notice of termination, the Term of this Lease shall terminate, but Tenant shall remain liable for all damages as provided for herein.

Tenant covenants and agrees, notwithstanding any termination of this Lease as aforesaid or any entry or re-entry by Landlord, whether by summary proceedings, termination, or otherwise, to pay and be liable for on the days originally fixed herein for the payment thereof, amounts equal to the several installments of Fixed Rent, additional rent and other charges reserved as they would become due under the terms of this Lease if this Lease had not been terminated or if Landlord had not entered or re-entered, as

aforesaid, and whether the Premises be relet or remain vacant, in whole or in part, or for a period less than the remainder of the Term, or for the whole thereof; but in the event the Premises be relet by Landlord, Tenant shall be entitled to a credit in the net amount of rent received by Landlord in reletting, after deduction of all expenses incurred in reletting the Premises (including, without limitation, remodeling costs,)
(brokerage fees, and the like), and in collecting the rent in connection therewith. It is specifically understood and agreed that Landlord shall be entitled to take into account in connection with any reletting of the Premises all relevant factors which would be taken into account by a sophisticated developer in securing a replacement tenant for the Premises, such as, but not limited to, the first class quality of the Buildings and the financial responsibility of any such replacement tenant; and Tenant hereby waives, to the extent permitted by applicable law, any obligation Landlord may have to mitigate Tenant's damages.

As an alternative, at the election of Landlord, Tenant will upon such termination pay to Landlord, as damages, such a sum as at the time of such termination represents the amount of the excess, if any, of the then value of the total Fixed Rent, additional rent and other benefits which would have accrued to Landlord under this Lease for the remainder of the Lease Term if the lease terms had been fully complied with by Tenant over and above the then cash rental value (in

advance) of the Premises for the balance of the Term. For purposes of this Article, if Landlord elects to require Tenant to pay damages in accordance with the immediately preceding sentence, the total additional rent shall be computed by assuming that Tenant's Proportionate Share of Taxes in excess of the Base Tax Amount and Tenant's Proportionate Share of the Operating Expenses in excess of the Base Operating Expenses would be, for the balance of the unexpired term, the amount thereof (if any), respectively, for the immediately preceding Tax Period or fiscal year, as the case may be, payable by Tenant to Landlord.

In the event of any breach by Tenant of any of the agreements, terms, covenants or conditions contained in this Lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right or remedy allowed at law or in equity or by statute or otherwise as though reentry, summary proceedings, and other remedies were not provided for in this Lease.

Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at

law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Lease, and furthermore if any payment of Fixed Rent, additional rent or any other payment payable hereunder by Tenant to Landlord shall not be paid when due, then in either case all such sums shall bear interest from the date paid by Landlord (or the date when the same was payable, as applicable) until the date paid by Tenant at the lesser of (x) four percent (4%) over the so-called base rate in effect from time to time at the First National Bank of Boston, compounded monthly, or (y) the highest rate of interest which Landlord may charge to Tenant without violating any applicable law. Such interest shall constitute additional rent payable hereunder and be payable upon demand therefor by Landlord.

Without limiting any of Landlord's rights and remedies hereunder, and in addition to all other amounts Tenant is otherwise obligated to pay, it is expressly agreed that Landlord shall be entitled to recover from Tenant all costs

and expenses, including, reasonable attorneys' fees incurred by Landlord in enforcing this Lease from and after Tenant's default.

12.3 LANDLORD'S DEFAULT. Landlord shall in no event be in default in the performance of any of Landlord's obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days, or such additional time as is reasonably required to correct any such default, after notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation. Notwithstanding the provisions of the foregoing sentence, however, if a repair required to be performed by Landlord hereunder shall be of an emergency nature, Landlord shall perform such repairs within a period of time which shall be reasonable in the circumstances.

Tenant further agrees that if Landlord shall have failed to cure any such default within thirty (30) days of such notice to Landlord (or if such default cannot be cured within said time, then within such additional time as may be necessary if within said thirty days Landlord has commenced and is diligently pursuing the remedies necessary to cure such default), then the holders of any mortgage(s) or the lessor under any ground lease entitled to notice pursuant to Section 13.4 shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be

necessary if within such thirty (30) days any such holder or lessor has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 EXTRA HAZARDOUS USE. Tenant covenants and agrees that Tenant will not do or permit anything to be done in or upon the Premises, or bring in anything or keep anything therein which shall increase the rate of insurance on the Premises or on the Building above the standard rate applicable to premises being occupied for research and development use; and Tenant further agrees that in the event that Tenant shall do any of the foregoing, Tenant will promptly pay to Landlord, on demand, any such increase resulting therefrom which shall be due and payable as additional rent hereunder.

13.2 WAIVER. Failure on the part of Landlord or Tenant to complain of any action or nonaction on the part of the other, no matter how long the same may continue, shall never be a waiver by Tenant or Landlord, respectively, of any

of the other's rights hereunder. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of Landlord or Tenant to or of any action by the other requiring such consent or approval shall not be construed to waive or render unnecessary Landlord's or Tenant's consent or approval to or of any subsequent similar act by the other.

No payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The acceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant. In no event shall Tenant ever be entitled to receive interest upon, or any payments on account of earnings or profits derived from any payments hereunder by Tenant to Landlord.

13.3 COVENANT OF QUIET ENJOYMENT; LIMITATION OF LANDLORD'S LIABILITY; RIGHT TO MAKE REPAIRS. Tenant, subject to the terms and provisions of this Lease, upon payment of

the Fixed Rent, additional rent and other charges due hereunder and the observing, keeping and performing of all of the terms and provisions of this Lease on Tenant's part to be observed,)

(kept and performed, shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises during the Term hereof, without hindrance or ejection by any persons lawfully claiming under Landlord to have title to the Premises superior to Tenant; the foregoing covenant of quiet enjoyment is in lieu of any other covenant, expressed or implied; and it is understood and agreed that this covenant and any and all other covenants of Landlord contained in this Lease shall be binding upon Landlord and Landlord's successors only with respect to breaches occurring during Landlord's and Landlord's successors respective ownership of Landlord's interest hereunder. Further, Tenant specifically agrees to look solely to Landlord's then equity interest in the Building and Lot at the time owned, or in which Landlord holds an interest as ground lessee, for recovery of any judgment from Landlord; it being specifically agreed that Landlord (original or successor) shall never be personally liable for any such judgment, or for the payment of any monetary obligation to Tenant. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest, or any action not involving the personal

liability of Landlord (original or successor) to respond in monetary damages from Landlord's assets other than Landlord's equity interest aforesaid in the Building and Lot. With respect to any services, including, without limitation, heat, air conditioning or water to be furnished by Landlord to Tenant, or obligations to be performed by Landlord hereunder, Landlord shall in no event be liable for failure to furnish or perform the same when (and the date for performance of the same shall be postponed so long as Landlord is) prevented from doing so by strike, lockout, breakdown, accident, fire or other casualty, order or regulation of or by any governmental authority, or failure of supply, or inability by the exercise of reasonable diligence to obtain supplies, parts or employees necessary to furnish such services, or perform such obligations or because of war or other emergency, or for any cause beyond Landlord's reasonable control, or for any cause due to any act or neglect of Tenant or Tenant's servants, agents, employees, licensees, invitees or any person claiming by, through or under Tenant. In no event shall Landlord ever be liable to Tenant for any indirect, special or consequential damages suffered by Tenant from whatever cause. With respect to any repairs or restoration which are required or permitted to be made by Landlord, the same may be made during normal business hours and shall not constitute an actual or constructive (partial or total) or a breach of the covenant of quiet enjoyment (express or implied); and Landlord shall have no liability

for damages to Tenant, and there shall be no abatement of rent, on account of inconvenience or interruption of business arising therefrom. Landlord agrees, however, to use reasonable efforts to minimize, to the extent reasonably practicable, inconvenience to Tenant and interruption of Tenant's activities in the Premises as a result of such repairs or restoration.

13.4 NOTICE TO MORTGAGEE AND GROUND LESSOR. Only after receiving notice from any person, firm or other entity that it holds a mortgage which includes the Premises as part of the mortgaged premises, or that it is the ground lessor under a lease with Landlord, as ground lessee, which includes the Premises as part of the demised premises, no notice from Tenant to Landlord shall be effective unless and until a copy of the same is given to such holder or ground lessor, and the curing of any of Landlord's defaults by such holder or ground lessor shall be treated as performance by Landlord. For the purposes of this Section 13.4, and Section 13.5 and Section 13.14, the term "mortgage" includes a mortgage on a leasehold interest of Landlord (but not one on Tenant's leasehold interest).

13.5 ASSIGNMENT OF RENTS. With reference to any assignment by Landlord of Landlord's interest in this Lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of a

mortgage or ground lease on property which includes the Premises, Tenant agrees:

(g) that the execution thereof by Landlord, and the acceptance thereof by the holder of such mortgage, or the ground lessor, shall never be treated as an assumption by such holder or ground lessor of any of the obligations of Landlord hereunder, unless such holder or ground lessor shall, by notice sent to Tenant, specifically otherwise elect; and

(h) that, except as aforesaid, such holder or ground lessor shall be treated as having assumed Landlord's obligations hereunder only upon foreclosure of such holder's mortgage and the taking of possession of the Premises, or in the case of a ground lessor, the assumption of Landlord's position hereunder by such ground lessor. In no event shall the acquisition of title to or leasehold interest of the Buildings and the land on which the same is located by a purchaser which, simultaneously therewith, leases the entire Building or such land back to the seller thereof, be treated as an assumption by operation of law or otherwise of Landlord's obligations hereunder, but Tenant shall look solely to such seller-lessee, and its successors from time to time in title, for performance of Landlord's obligations hereunder. In any such event, this Lease shall be subject and subordinate to the lease to such seller-lessee. For all

purposes such seller-lessee, and its successors in title, shall be the Landlord hereunder unless and until Landlord's position shall have been assumed by such purchaser lessor.

13.6 MECHANIC'S LIENS. Tenant agrees immediately to discharge (either by payment or by the filing of the necessary bond, or otherwise) any mechanics', materialmen's or other lien against the Premises and/or Landlord's interest therein, which arise out of any payment due for any labor, services, materials, supplies or equipment alleged to have been furnished to or for Tenant in, upon or about the Premises other than for Landlord's Work.

13.7 NO BROKERAGE. Tenant warrants and represents that Tenant has not dealt with any broker other than the Broker named in Section 1.2 hereof, in connection with the consummation of this Lease, and in the event any claim is made against the Landlord relative to dealings with brokers other than the Broker named in Section 1.2, Tenant shall defend the claim against Landlord with counsel of Landlord's selection and save harmless and indemnify Landlord on account of loss, cost or damage which may arise by reason of any such claim.

13.8 INVALIDITY OF PARTICULAR PROVISIONS. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or

unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

13.9 PROVISIONS BINDING, ETC. Except as herein otherwise provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant and, if Tenant shall be an individual, upon and to his heirs, executors, administrators, successors and assigns. If two or more persons are named as Tenant herein, each of such persons shall be jointly and severally liable for the obligations of the Tenant hereunder, and Landlord may proceed against any one without first having commenced proceedings against any other of them. Each term and each provision of this Lease to be performed by Tenant shall be construed to be both a covenant and a condition. The reference contained to successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has reference only to those instances in which Landlord may later give consent to a particular assignment as required by those provisions of Article 5 hereof.

13.10 RECORDING. Tenant agrees not to record the within Lease, but each party hereto agrees, on the request of the other, to execute a so-called memorandum of lease or short form lease in form recordable and complying with applicable law and reasonably satisfactory to Landlord's attorneys. In no event shall such document set forth the rent or other charges payable by Tenant under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease and is not intended to vary the terms and conditions of this Lease.

13.11 NOTICES. Whenever, by the terms of this Lease, notice shall or may be given either to Landlord or to Tenant, such notice shall be in writing and shall be delivered in hand or sent by registered or certified mail, postage prepaid:

If intended for Landlord, addressed to Landlord at the address set forth in Section 1.2 of this Lease (or to such other address or addresses as may from time to time hereafter be designated by Landlord by like notice) and a copy to Landlord, c/o

If intended for Tenant, addressed to Tenant at the address set forth in Section 1.2 of this Lease, Attention:

Ernest Haddad, Esq., Secretary and General Counsel (or to such other address or addresses as may from time to time hereafter be designated by Tenant by like notice) and a copy to Tenant, c/o _____.

All such notices shall be effective when delivered in hand, or when deposited in the United States mail within the continental United States provided that the same are received in the ordinary course at the address to which the same were sent.

Whenever, by the terms of this Lease, whether pursuant to Section 4.3 or otherwise, Tenant shall be obligated to obtain consent or approval of the BRA or a permit or authorization from any other governmental agency, such consent, approval or authorization shall be undertaken by Tenant at its sole cost and expense, provided however that Landlord agrees to join in any application therefor whenever such is necessary, but at Tenant's sole cost and expense. In no event shall Tenant be required under this Lease to obtain any consent, approval or authorization from the BRA or any other governmental agency prior to the Commencement Date. All written communication to the BRA shall comply with Article 25 of the Ground Lease.

13.12 WHEN LEASE BECOMES BINDING. Employees or agents of Landlord have no authority to make or agree to make a lease or any other agreement or undertaking in connection

herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises, and this document shall become effective and binding only upon the execution and delivery here of by both Landlord and Tenant. All negotiations, considerations, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by written agreement between Landlord and Tenant, and no act or omission of any employee or agent of Landlord shall alter, change or modify any of the provisions hereof.

13.3 PARAGRAPH HEADINGS. The paragraph headings throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

13.14 RIGHTS OF MORTGAGEE AND GROUND LESSOR. It is understood and agreed that the rights and interests of Tenant under this Lease shall be subject and subordinate to the Ground Lease and all renewals, extensions, modifications and replacements thereof, and to any mortgages or deeds of trust that are now or may hereafter be placed upon the Building and/or the Lot or Landlord's leasehold interest therein, and to any and all advances or readvances to be made thereunder, and to the interest thereon, and all renewals, modifications,

replacements and extensions thereof, if the mortgagee or trustee named in said mortgages or deeds of trust (or the respective successor(s)) shall elect by notice delivered to Tenant to subject and subordinate the rights and interest of Tenant under this Lease to the lien of its mortgage or deed of trust; it is further agreed that any mortgagee or trustee may elect to give the rights and interest of Tenant under this Lease priority over the lien of its mortgage or deed of trust but that to the extent that either shall not so elect, Landlord shall deliver to Tenant an agreement (i) from the BRA to the effect that Tenant's rights hereunder shall be recognized upon the termination of the Ground Lease, provided Tenant shall simultaneously attorn to the BRA in form satisfactory to the BRA and (ii) from the holder of any mortgage to the effect that Tenant's rights hereunder (subject to qualifications of the type set forth in clauses (a) through (g) of the immediately following paragraph) shall be recognized at foreclosure or in the event of a deed in lieu of foreclosure, so long as no Event of Default shall exist. In the event of either such election, and upon notification by such mortgagee or trustee to Tenant to that effect, the rights and interest of Tenant under this Lease shall be deemed to be subordinate to, or to have priority over, as the case may be, the lien of said mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said mortgage or deed of trust. Tenant shall execute and deliver whatever instruments may be reasonably

required in confirmation of the foregoing within ten (10) days after demand in writing, but the provisions of this Section shall be self-operative upon such election and demand and shall not require any further instrument to give effect to the provisions hereof.

Any lease to which this Lease is, at the time referred to, subject and subordinate is herein called "Superior Lease" and the lessor of a Superior Lease or its successor in interest, at the time referred to, is herein called "Superior Lessor"; and any mortgage or deed of trust to which this lease is, at the time referred to, subject and subordinate, is herein called "Superior Mortgage" and the holder or trustee of a Superior Mortgage is herein called "Superior Mortgagee". If any Superior Lessor or Superior Mortgagee or the nominee or designee of any Superior Lessor or Superior Mortgagee shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, or otherwise (the occurrence of which is hereinafter a "Succession"), then at the request of such party so succeeding to Landlord's rights (herein called "Successor Landlord") and upon such Successor Landlord's written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment.

Upon such attornment, this Lease shall continue in full force and effect as a direct lease between the successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease, except that the Successor Landlord (unless formerly the landlord under this Lease or its nominee or designee) shall not be (a) liable in any way to Tenant for any act or omission, neglect or default on the part of Landlord under this Lease, (b) responsible for any monies owing by or on deposit with Landlord to the credit of Tenant, (c) subject to any counterclaim or setoff which theretofore accrued to Tenant against Landlord, (d) bound by any modification of this Lease subsequent to such Superior Lease or Mortgage, or by any previous prepayment of Fixed Rent for more than one (1) month, which was not approved in writing by the Superior Lessor or the Superior Mortgagee thereto, (e) liable to the Tenant beyond the Successor Landlord's interest in the Property and the rents, income, receipts, revenues, issues and profits issuing from such Property, (f) responsible for the performance of any work to be done by the Landlord under this Lease to render the Premises ready for occupancy by the Tenant, or (g) required to remove any person occupying the Premises or any part thereof, except if such person claims by, through or under the Successor Landlord. However, until the Successor Landlord shall require such attornment, or shall otherwise elect, Tenant shall pay to such Successor Landlord, from and after Succession, the Fixed Rent and additional rent and all

other charges payable by the Tenant, and shall perform, for the benefit of such Successor Landlord, all obligations of Tenant to be performed under this Lease. Nothing contained in this Section shall be construed to impair any right, privilege or option of any such Successor Landlord.

13.15 STATUS REPORT. Recognizing that both parties may find it necessary to establish to third parties, such as accountants, banks, mortgagees or the like, the then current status of performance hereunder, either party, on the request of the other made from time to time, will promptly furnish to Landlord, or the holder of any mortgage encumbering the Premises, or to Tenant, as the case may be, a statement of the status of any matter pertaining to this Lease, including, without limitation, acknowledgments that (or the extent to which) each party is in compliance with its obligations under the terms of this Lease.

13.16 SURVIVAL. Except as otherwise set forth herein, any obligations of Tenant as set forth herein (including, without limitation, rental and other monetary obligations, repair obligations and obligations to indemnify Landlord), shall survive the expiration or earlier termination of this Lease, and Tenant shall immediately reimburse Landlord for any expense incurred by Landlord in curing Tenant's failure to satisfy any such obligation (notwithstanding the fact that

such cure might be effected by Landlord following the expiration or earlier termination of this Lease).

13.17 HOLDING OVER. Any holding over by Tenant after the expiration of the Lease Term shall be treated as a tenancy at sufferance at twice the Fixed Rent and additional rent herein provided to be paid during the last twelve (12) months of the Lease Term (prorated on a daily basis) and shall otherwise be on the terms and conditions set forth in this Lease, as far as applicable.

13.18 NON-SUBROGATION. Insofar as, and to the extent that, the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in the locality in which the Premises are located (even though extra premium may result therefrom): Landlord and Tenant mutually agree that, with respect to any hazard which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such premium the

amount of such extra premium. If, at the request of one party, this release and non subrogation provision is waived, then the obligation of reimbursement shall cease for such period of time as such waiver shall be effective, but nothing contained in this Section 13.18 shall derogate from or otherwise affect releases elsewhere herein contained of either party for claims.

13.19 GOVERNING LAW. This Lease shall be governed exclusively by the provisions hereof and by the laws of The Commonwealth of Massachusetts as the same may from time to time exist. *Inasmuch as it is the intention of Landlord and Tenant that this lease not be a "disqualified lease" as defined in Section 168(h) (1)(b) of the Internal Revenue Code of 1986, Landlord and Tenant agree that any provision hereof inconsistent with such intention shall be deemed*

13.20 DEFINITION OF ADDITIONAL RENT. Without limiting *modified on to the extent necessary to avoid this lease being deemed a "disqualified lease."* *Although the provisions of the immediately preceding sentence shall be self-operative, Landlord and Tenant each agree to enter into an Amendment to this Lease reflecting such modification upon ten days prior notice from Landlord or Tenant to the other.* any other provision of this Lease, it is expressly understood and agreed that Tenant's participation in Taxes, Operating Expenses, and all other charges which Tenant is required to pay hereunder, together with all interest and penalties that may accrue thereon, shall be deemed to be additional rent and in the event of non-payment thereof by Tenant, Landlord shall have all of the rights and remedies with respect thereto as would accrue to Landlord for non-payment of Fixed Rent.

13.21 RULES AND REGULATIONS. Tenant shall abide by reasonable rules and regulations from item to time

established for the Building by Landlord, it being agreed that such rules and regulations will be established and applied by Landlord in a non-discriminatory fashion, such that all rules and regulations shall be generally applicable to other tenants, of similar nature to the Tenant named herein, of the Building. Landlord agrees to use reasonable efforts to insure that any such rules and regulations are uniformly enforced, but Landlord shall not be liable to Tenant for violation of the same by any other tenant or occupant of the Building, or persons having business with them. In the event that there shall be a conflict between such rules and regulations and this Lease, the provisions of this Lease shall prevail.

WITNESS the execution hereof, under seal, in any number of counterparts, each of which counterparts shall be deemed an original for all purposes, as of the day and year first above written.

LANDLORD:

CONSTITUTION OFFICE PARK ASSOCIATES
LIMITED PARTNERSHIP

By: The Congress Group, Inc., a
General Partner

By: _____

By: The Realex Capital Corporation, a
General Partner

By: _____

TENANT:

THE GENERAL HOSPITAL CORPORATION

By: _____
Vice President

By: _____
Assistant Treasurer

EXHIBIT "FMV"
(DETERMINATION OF FAIR MARKET VALUE AND FAIR MARKET RENTAL VALUE)

Whenever a determination of value is required to be made pursuant to the terms of the Lease to which this Exhibit is attached (and references hereinafter to such Lease mean and include this Exhibit), and the parties to this Lease are unable to reach agreement on such determination of value by the applicable time for agreement as provided in the Lease, such determination shall be made in accordance with the provisions hereinafter set out.

Either Landlord or the Tenant (the "Initiating Party") shall initiate the proceedings for such determination by notice to the other, and by designating one Qualified Appraiser. Within ten (10) days after receipt by the other party (the "Responding Party") of such notice, the Responding Party shall, by notice to the Initiating Party, designate the name and address of another Qualified Appraiser. If the Responding Party shall fail, neglect or refuse within said ten-day period to designate another appraiser willing so to act, the appraiser designated by the Initiating Partner shall designate the second Qualified Appraiser. The two appraisers so designated shall meet within ten (10) days after the second appraiser is designated, and, if within ten (10) days after the second appraiser is designated, the two appraisers

do not agree upon the fair market value of the Property (as defined in Section 2.3) or the fair market rental value of the Office Space Extension Term (as defined in Section 2.5), as applicable, they shall appoint a third Qualified Appraiser. In the event that the two appraisers are unable to agree upon the appointment of a third Qualified Appraiser within ten (10) days after the time aforesaid, either Landlord or Tenant, on behalf of both, may then request appointment of such appraiser by a presiding judge of the Superior Court of Suffolk County, Massachusetts. In the event of a failure, refusal or inability of any appraiser to act, a new appraiser shall be appointed in his stead, which appointment shall be made in the same manner as hereinabove provided for the appointment of such appraiser so failing, refusing or being unable to act. The resulting board of appraisers shall, forthwith upon their appointment, (i) hear the parties to this Lease and their witnesses, (ii) examine the records relating to the Property or the First (or Second) Office Space Extension Term or the Laboratory Space Extension Term (as applicable) and such other documents and records as may, in their judgment, be necessary, and (iii) determine the fair market value of the Property or fair market rental value of the Office Space for the First (or Second) Office Space Extension Term or of the Laboratory Space for the Laboratory Space Extension Term (as applicable). Within ten (10) days after the appointment of the third Qualified Appraiser, the appraisers shall make a determination of such fair market value or fair market rental value. In the event that all appraisers cannot agree upon such

fair market value or fair market rental value within ten (10) days as aforesaid, each appraiser shall submit his appraisal of such value under each of the two alternatives set forth above to the other two appraisers in writing, and such value shall be determined by calculating the average of the two numerically closest (or, if the values are equidistant, all three) values determined by the three appraisers.

A "Qualified Appraiser" shall mean any disinterested person who is a member in good standing of the American Institute of Real Estate Appraisers (MAI) or the American Society of Real Estate Counselors (or the successor to either of such organizations) and who has had not less than ten (10) years experience in appraising, valuing, owning or managing research and development buildings in major metropolitan areas.

The costs, other than counsel fees, of such appraisal shall be borne equally by the parties. Upon determining such fair market value the appraisers shall promptly notify Landlord and Tenant in writing of such determination. If any party shall fail to appear at the hearings appointed by the appraisers, the appraisers may act in the absence of such party.

The determination of the board of appraisers (or the Additional Appraiser, as appropriate) made in accordance with the foregoing provisions shall be final and binding upon the parties, such determination may be entered as an award in arbitration in a

court of competent jurisdiction, and judgment thereon may be entered.

EXHIBIT "A"

PLAN SHOWING BUILDING 149

EXHIBIT "B"

DESCRIPTION OF PARCELS OF LAND

EXHIBIT "C"

LANDLORD'S WORK

To be supplied

72,718
72,728
72,731
72,735
72,738
72,741
72,745
72,748
72,751
72,755
72,758
72,761
72,765

EXHIBIT "D"

RENTABLE SQUARE FOOTAGE PER FLOOR OF BUILDING 149
(Excluding Retail Areas)

<u>Floor</u>	<u>Rentable Sq. Ft.</u>
10	32,738
9	33,228
8	75,411
7	74,356
6	75,411
5	74,356
4	75,411
3	74,355
2	74,983
1	15,000

EXHIBIT E
(ENCUMBRANCES ON PROPERTY)

Those certain exceptions of title identified on Schedule B of those certain leasehold owners policies of title insurance issued by Ticor Title Insurance Company, one being Policy No. 624383 L, as endorsed through November 10, 1986, (with respect to Building 149), and the other being Policy No. 624551 L, as endorsed through November 10, 1986 (with respect to Building 199), copies of which are attached hereto.

PARKING SPACE LEASE

FOR BUILDING 199

Charlestown Navy Yard
Charlestown, Massachusetts

<u>ARTICLE</u>	<u>SECTION</u>	<u>CAPTION</u>	<u>PAGE</u>
I		<u>Basic Lease Provisions</u>	
	1.1	Introduction	
	1.2	Basic Data	
II		<u>Description of Premises and Appurtenant Rights; Term</u>	
	2.1	Location of Premises	
	2.2	Appurtenant Rights and Reservations	
	2.3	Tenant's Right to Purchase	
III		<u>Rent</u>	
	3.1	Fixed Rent	
	3.2	Fixed Rent for Partial Month	
IV		<u>Use of Premises</u>	
	4.1	Permitted Use	
	4.2	Alterations	
	4.3	Ground Lease	
V		<u>Assignment and Subletting</u>	
	5.1	Prohibition	
VI		<u>Delivery of Premises and Responsibility for Repairs and Condition of Premises</u>	
	6.1	Delivery of Possession of Premises	
	6.2	Repairs to be Made by Landlord	
	6.3	Tenant's Agreement	
	6.4	Floor Load--Heavy Machinery	
VII		<u>Services to be Furnished by Landlord</u>	
	7.1	Landlord's Services	
	7.2	Energy Conservation	
VIII		<u>Indemnity and Public Liability Insurance</u>	
	8.1	Tenant's Indemnity	
	8.2	Public Liability Insurance	
	8.3	Tenant's Risk	
	8.4	Injury Caused by Third Parties	
IX		<u>Landlord's Access to Premises</u>	
	9.1	Landlord's Right of Access	
	9.2	Exhibition of Space to Prospective Tenants	

<u>ARTICLE</u>	<u>SECTION</u>	<u>CAPTION</u>	<u>PAGE</u>
X		<u>Fire, Eminent Domain, Etc.</u>	
	10.1	Abatement of Rent	
	10.2	Landlord's Right of Termination	
	10.3	Award	
XI		<u>Landlord's Remedies</u>	
	11.1	Events of Default	
	11.2	Remedies	
	11.3	Landlord's Default	
XII		<u>Miscellaneous Provisions</u>	
	12.1	Extra Hazardous Use	
	12.2	Waiver	
	12.3	Covenant of Quiet Enjoyment; Limitation of Landlord's Liability; Right to Make Repairs	
	12.4	Notice to Mortgagee and Ground Lessor	
	12.5	Assignment of Rents	
	12.6	Mechanics' Liens	
	12.7	No Brokerage	
	12.8	Invalidity of Particular Provisions	
	12.9	Provisions Binding, Etc.	
	12.10	Recording	
	12.11	Notices	
	12.12	When Lease Becomes Binding	
	12.13	Paragraph Headings	
	12.14	Rights of Mortgagee and Ground Lessor	
	12.15	Status Report	
	12.16	Survival	
	12.17	Holding Over	
	12.18	Non-Subrogation	
	12.19	Governing Law	
	12.20	Rules and Regulations	
EXHIBITS	FMV	Determination of Fair Market Value and Fair Market Rental Value	
	A	Plan Showing Building 199	
	B	Description of Parcel of Land	
	C	Encumbrances on Property	

THIS INSTRUMENT IS AN INDENTURE OF LEASE ("Lease") in which the Landlord and the Tenant are the parties hereinafter named, and which relates to certain parking spaces ("Parking Spaces" or "Premises") in the building known as Building 199 (the "Building"), as shown on Exhibit "A" annexed hereto. The number of Parking Spaces shall be the number from time to time obtained by dividing the Rentable Square Footage of the Premises (as such term is defined from time to time by that certain lease (the "Building 149 Lease") dated as of the date hereof by and between Constitution Office Park Associates Limited Partnership, a Massachusetts limited partnership and Tenant) by 1,000 and multiplying such dividend by one and four-tenths (1.4) (except that, if the number of such additional spaces so calculated results in any fraction of a space, such fraction shall be disregarded and the number of Parking Spaces shall be rounded down to the next whole number), and the location thereof shall be determined from time to time by Landlord after using reasonable efforts to comply with Tenant's request with respect thereto. The Building is located on a certain parcel of land (the "Lot") situated on a portion of the premises known as the Charlestown Navy Yard which Lot is more particularly described in Exhibit "B" annexed hereto.

The parties to this instrument hereby agree with each other as follows:

ARTICLE 1

BASIC LEASE PROVISIONS

1.1 INTRODUCTION. As further supplemented in the balance of this instrument and its Exhibits, the following sets forth the basic terms of this Lease and, where appropriate, constitutes definitions of certain terms used in this Lease.

1.2 BASIC DATA.

Date of this Lease: December __, 1986

Landlord: Navy Yard Parking Associates/
LNRC Venture, a general
partnership

Present Mailing Address
of Landlord:

c/o Immobiliare New England
Shipyard Quarters
Charlestown, MA 02128.
Attn:

Tenant:

The General Hospital
Corporation.

Present Mailing Address
of Tenant:

One Fruit Street
Boston, MA 02114

Attn: Lawrence E. Martin,
Associate General
Director

Lease Term or Term: Coterminous with the Building
149 Lease.

Fixed Rent: The amounts provided in Article
3.

Commencement Date: The Commencement Date of the
Building 149 Lease.

Use: The Premises shall be used by
Tenant solely for the parking
of automobiles of Tenant,
Tenant's employees, guests and
clients and members of the
general public and only in ac-
cordance with all applicable
federal, state and local laws,
ordinances and regulations.

Broker: R.M. Bradley & Company, Inc.

ARTICLE 2

DESCRIPTION OF PREMISES AND APPURTENANT RIGHTS; TERM

2.1 PREMISES. Landlord hereby demises and leases to
Tenant, and Tenant hereby accepts from Landlord, the Premises

identified in the foregoing portions of this Lease, for the Lease Term.

2.2 APPURTENANT RIGHTS AND RESERVATIONS. Tenant shall have, as appurtenant to the Premises, the nonexclusive right to use and to permit its invitees to use in common with others, public or common stairways and passenger elevators in the Building, but such rights shall always be subject to reasonable rules and regulations from time to time established for the Building by Landlord by suitable notice and to the right of Landlord to designate and change from time to time areas and facilities so to be used (provided that such designation or change shall not materially diminish either services provided to the Premises or ease of access to the Premises by Tenant, its employees or invitees or ease of access to the premises demised pursuant to the Building 149 Lease from the Premises).

Excepted and excluded from the Premises are the ceiling, the floors and any perimeter walls of the Premises, except the inner surfaces of each and any space in the Premises used for shafts, stacks, pipes, conduits, fan rooms, ducts, electrical or other utilities, sinks or other Building facilities; and Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as to reduce to a minimum interference with Tenant's use of the Premises) utility lines, pipes and the like to serve premises

other than the Premises, and to replace, maintain and repair such utility lines, pipes and the like, in, over and upon the Premises. Landlord shall be entitled (but not required) to identify and change from time to time the location of the Premises and to separate the Premises from the remainder of the Building by any reasonably suitable means provided that Tenant's access to or egress from the Premises shall not be unreasonably impaired.

During the hours of 8:00 A.M. to 6:00 P.M., Monday through Friday, 8:00 A.M. to 1:00 P.M. on Saturdays, and such other times as shall be economically practical for Landlord to maintain operations in the Building, but all federal state, county and city legal holidays in all cases excepted (hereinafter referred to as "Normal Building Operating Hours"), the Building shall be open and access to the Premises for Tenant and its employees, guests and clients shall be available, subject to reasonable ingress and egress monitoring and interruption due to causes beyond Landlord's reasonable control. During periods other than Normal Building Operating Hours, Tenant shall have access to the Premises, but such access shall always be subject to reasonable rules and regulations therefor from time to time established for the Building by Landlord by suitable notice. Tenant acknowledges that, in all events, Tenant is responsible for providing security to the Premises following entry onto the Premises for any reason and its own personnel (as opposed to

common area security services which Landlord shall provide pursuant to Article 7), and Tenant shall indemnify, defend with counsel of Landlord's selection, and save Landlord harmless from any claim for injury to person or damage to property asserted by any personnel, employee, guest, invitee or agent of Tenant to have been suffered or to have occurred in or about the Premises or in or about the Building by reason of the act of an intruder or any other person in or about the Premises or the Building, except to the extent caused by the gross negligence of Landlord, its agents or employees.

2.3 TENANT'S RIGHT TO PURCHASE. Provided that, at the time of such exercise, there exists no Event of Default, and this Lease is still in full force and effect, Tenant shall (subject to the following restrictions and conditions), effective on or before May 31, 1997, be entitled to acquire Landlord's interest in the Building and Lot and the Building and Lot defined in the Building 149 Lease (collectively the "Property"), subject to then existing leases to occupancy tenants, the "Ground Lease" (as defined in Section 4.3), the agreement between Landlord and the Building's management company (the "Management Agreement"), and all other encumbrances, restrictions, exceptions and liens identified on Exhibit F, together with such other encumbrances, restrictions and exceptions on the Property as of the date of transfer which do not affect marketability, do not materially

affect the market value of the Property and which shall be or have been approved by Tenant, which approval shall not be unreasonably withheld or delayed (herein collectively "Permitted Encumbrances").

Tenant shall exercise such option by giving written notice to Landlord not less than one (1) year in advance. The purchase price shall be the greater of (a) the fair market value of the Property (as designated by Landlord), subject to ^{then} ~~any~~ existing leases to occupancy tenants, the Ground Lease and all Permitted Encumbrances, or (b) One Hundred Seventy-eight Million Three Hundred Thousand (\$178,300,000.00) Dollars. If Tenant disagrees with Landlord's designation of the fair market value, and the parties cannot agree upon such value within thirty (30) days of Tenant's exercise of its option hereunder then such value shall be determined in accordance with Exhibit FMV. The remaining terms for such transaction shall be the then standard terms in effect in the City of Boston for similar transactions, except as hereinafter provided and each party shall pay its own legal fees.

As a condition precedent to Landlord's obligation to convey such interest, Tenant shall at its sole cost and expense obtain all approvals and all consents of the BRA required for such conveyance in form reasonably satisfactory to Landlord, shall pay any fees or charges payable to the BRA

in connection with such conveyance and all prepayment fees to any mortgagee of the Property (unless the obligations of Landlord to any such mortgagee shall be assumable, in which case as part of the purchase price Tenant shall assume the obligations of Landlord to such mortgage(s), which assumption shall be in form reasonably satisfactory to Landlord) and shall also pay all other "closing costs", specifically including, without limitation, any applicable "transfer taxes", recording fees and other similar charges.

Notwithstanding any of the foregoing to the contrary, the options herein granted shall in no event prevent Landlord from selling the Property at any date prior to such date as Tenant shall have properly exercised its right to purchase the Property, provided however that in the event of a proposed sale to a third party or parties prior to May 31, 1997, Landlord shall notify Tenant of the salient terms of such proposed sale, and Tenant may, by giving notice to Landlord within forty-five (45) days of receipt of Landlord's notice, elect to acquire the Property on the terms and conditions stated in Landlord's notice. If Tenant shall not properly elect to enter into such transaction then Landlord shall thereafter be free to convey the Property to a third party or parties at any time within the next nine (9) calendar months following Landlord's notice to Tenant on substantially the same terms and conditions as offered to Tenant; and Tenant's failure to consummate such transaction

following an election to enter into such transaction shall vitiate any further rights of Tenant under this Section 2.3 and Landlord shall thereafter be free to convey the Property at any time, to any party on terms and conditions as Landlord deems appropriate. Furthermore, upon the sale by Landlord of its interest in the Property pursuant to this Section 2.3, Tenant shall have no further rights under this Section 2.3

In the event of the sale of Landlord's interest in the Property to Tenant pursuant to Section 2.3, this Lease shall terminate and all obligations of Landlord and Tenant hereunder shall cease as of the closing of such sale except that (i) Tenant shall assume Landlord's obligations under the "Permitted Encumbrances", if any (specifically including, without limitation, the Management Agreement), in form reasonably satisfactory to Landlord, and (ii) Landlord shall remain obligated to pay, if not so paid at or prior to closing, all so-called "linkage" payments to the City of Boston.

Tenant may exercise its rights under this Section 2.3 only in conjunction with the contemporaneous exercise of Tenant's rights under Section 2.3 of the Building 149 Lease.

ARTICLE 3

RENT

3.1 FIXED RENT. Tenant agrees to pay to Landlord the Fixed Rent (as hereinafter defined) at the Present Mailing

Address of Landlord, or as otherwise directed by Landlord, without abatement, notice, demand, off-set or deduction, on the Commencement Date and thereafter, in equal monthly installments, in advance, on the first day of each and every calendar month during the Lease Term. The Fixed Rent shall be the sum of (i) for the period expiring as of the first anniversary of the Commencement Date, Sixty-Five Dollars (\$65.00) per month per number of Parking Spaces contained in the Premises, and (ii) for the remainder of the Lease Term, the greater of (a) one hundred and five percent (105%) of the immediately preceding twelve-month period's average Fixed Rent or (b) the fair market rental value of the Premises, as determined below.

In each year in which the fair market rental value of the Premises must be determined in order to compute or ascertain Tenant's Fixed Rent, not less than six (6) months prior to the first day on which such value is to be determined, Landlord and Tenant shall enter into good faith negotiations to determine such fair rental value. If Landlord and Tenant shall be unable to agree upon such value within thirty (30) days thereafter, the fair rental value of the Premises (determined based upon Tenant's control of the number of Parking Spaces contained therein due to the control Tenant may exercise, pursuant to the Building 149 Lease, of the size of the premises demised pursuant to said Building

149 Lease) shall be determined in accordance with the procedures set forth in Exhibit "FMV," attached hereto and hereby made a part hereof.

3.2 FIXED RENT FOR PARTIAL MONTH. Fixed Rent for any partial month shall be paid by Tenant at the applicable rate provided in Section 3.1 on a pro rata basis. If the Commencement Date occurs on a day other than the first day of a calendar month, the first payment which Tenant shall make shall be a payment equal to a proportionate part of such monthly Fixed Rent for the partial month from the Commencement Date to the first day of the succeeding calendar month.

ARTICLE 4

USE OF PREMISES

4.1 PERMITTED USE. Tenant agrees that the Premises shall be used and occupied by Tenant only for the purpose specified in Section 1.2 of this Lease, and for no other purpose or purposes.

Tenant further agrees to conform to the following provisions during the entire Lease Term and such further time as Tenant occupies any part of the Premises.

(a) Tenant shall not perform any act or any practice which may injure the Premises, or any other part of the

Building, or cause any offensive odors or loud noise, or constitute a nuisance or a menace to any other tenant or tenants or other persons in or adjacent to the Building, or be detrimental to the reputation or appearance of the Building;

(b) Tenant shall comply and shall cause all employees to comply with all rules and regulations from time to time established for the Building by Landlord by suitable notice. Landlord shall use reasonable efforts to insure that any such rules and regulations are uniformly enforced and applied but Landlord shall not be responsible for the noncompliance with any such rules and regulations by any other tenant or occupant of the Building.

(c) Tenant shall not place on the exterior of exterior walls (including and exterior surfaces of windows and doors) or on any part of the Buildings outside the Premises, any sign, symbol, advertisement or the like visible to public view outside of the Premises, without the prior written approval of Landlord and the BRA. Without limitation, lettering on windows and window displays are expressly prohibited. Tenant may not install any such signage unless the same shall comply with all applicable laws, specifically including without limitation the Boston Sign Code.

(d) Tenant shall not perform any act or any practice which may injure the Premises, or any other part of the

Building, or cause any offensive odors or loud noise or other emission from the Premises, or constitute a nuisance or a menace to any other tenant or tenants or other persons in or adjacent to the Building, or be determined to the reputation or appearance of the Building.

(e) Tenant shall keep the Premises equipped with all safety appliances required by law or ordinance or any other regulation of any public authority because of any use made by Tenant, and shall procure all licenses and permits so required because of such use and, if requested by Landlord, shall perform, at Tenant's expense, any work so required because of such use, it being understood that the foregoing provisions shall not be construed to broaden in any way the permitted Use.

4.2 ALTERATIONS. Tenant shall not alter or add or improve the Premises, except in accordance with written consent from Landlord, which Landlord agrees, subject however to the express limitations restrictions, conditions or controls contained in the "Ground Lease" (as defined in Section 4.3 hereof) specifically including without limitation those contained in Article 8 thereof entitled "Changes and Alterations", not unreasonably to withhold as to non-structural alterations or additions, provided however, that Landlord's consent to any so-called "restriping" of parking spaces may be withheld in Landlord's sole and

unfettered discretion. All work performed by Tenant shall be done in accordance with all applicable laws, in a good and first-class workmanlike manner, by contractors and mechanics approved by Landlord, in strict accordance with the requirements of the Ground Lease (specifically including without limitation, those contained in Article 32 thereof entitled "Nondiscrimination; Employment; No Conflicts"), Landlord's insurers and Tenant's insurers, in accordance with plans approved by Landlord, and at Tenant's sole cost and expense. Any contractor or other person undertaking any work in the Premises on behalf of Tenant shall be covered by Comprehensive General Liability (including coverages for Protective and Contractual Liability for purposes of the indemnification clause of Section 8.1, Builders Risk, and Comprehensive Automotive Liability Insurance covering all vehicles used in connection with such work) and Workmen's Compensation insurance all with coverage limits acceptable to Landlord and evidence thereof shall be furnished to Landlord prior to the performance by such contractor or person of any work in respect of the Premises. All work performed by Tenant in the Premises shall remain therein (unless, at the time of approval of plans therefor, Landlord directs Tenant to remove the same prior to expiration or termination of this Lease) and, at termination shall be surrendered as a part thereof, except for Tenant's usual trade furniture and equipment, if movable and installed prior to or during the Lease Term by Tenant at Tenant's cost, which trade furniture

and equipment Tenant may (and if Landlord so requests, shall) remove upon the termination of this Lease provided that Tenant is not then in default hereunder. Tenant agrees to repair any and all damage to the Premises resulting from such removal (including removal of Tenant's improvements directed by Landlord) or, if Landlord so elects, to pay Landlord for the cost of any such repairs forthwith after billing therefor.

4.3 GROUND LEASE. Tenant acknowledges that the Building and the Lot are subject to a certain ground lease including all Exhibits thereto, specifically including without limitation Exhibit D thereof (First Source Agreement, including Exhibit A and Exhibit WCG thereto), dated as of May 23, 1985 (the "Ground Lease") to the Landlord from the Boston Redevelopment Authority, a body politic and corporate organized under the laws of the Commonwealth of Massachusetts (together with its successors and assigns the "BRA"). Tenant acknowledges that is has received and reviewed the Ground Lease and agrees to comply with the provisions of the Ground Lease, as the same relate to this Lease and the Premises (and to cooperate with Landlord in complying with such provisions), and further covenants that is shall not, by its actions or inaction, cause Landlord to be in violation of any of Landlord's obligations thereunder. Tenant further acknowledges that specific reference in this Lease to the compliance with requirements under the Ground Lease

(including receipt of BRA approval) is solely intended to draw attention to the specific requirement or necessary approval, and shall in no event excuse Tenant from such compliance or the need to obtain such approval where such specific reference is not made.

Pursuant to Landlord's obligations under the Ground Lease, Landlord hereby notifies Tenant that it supports the pursuit of the Workforce Compensation Goals set forth in the First Source Agreement attached to the Ground Lease as Exhibit D and encourages Tenant to pursue such goals in their own employment practices. Specifically, Tenant is hereby notified that Landlord supports the affirmative action and resident preference goals, which are attached to the Ground Lease as Exhibit "WCG" of Exhibit A (Permanent Employment Program) to First Source Agreement (Exhibit D of the Ground Lease) regarding the employment of City of Boston residents, minorities, females, low to moderate income persons, and economically disadvantaged persons, and encourages Tenant to pursue such goals in Tenant's own employment practices. Landlord actively encourages Tenant to enter into agreement and to make use of employment and training services provided by Neighborhood Industry Council or its designated agencies including use of the Boston Job Exchange. In connection with hiring to fill permanent jobs at the Premises, Tenant shall not discriminate against any employee or applicant for employment because of race, color, religious creed, national

origin, age or sex. Tenant shall comply to the extent applicable with Title VII of the U.S. Civil Rights Act and M.G.L. c. 151B with respect to employment at the Premises.

ARTICLE 5

ASSIGNMENT AND SUBLETTING

5.1 PROHIBITION. Notwithstanding any other provisions of this Lease, Tenant covenants and agrees that except as provided below, it will not assign this Lease or sublet (which term, without limitation, shall include the granting of concessions, licenses, management arrangements and the like) the whole or any part of the Premises without, in each instance, having first received the express written consent of Landlord. Landlord's consent shall not be unreasonably withheld as to the subleasing to any entity or entities which simultaneously therewith enter into a sublease of space in Building 149 of up to fifty percent (50%) of the Premises other than to Affiliates (as defined below), but as to any subleasing which would result in the subleasing of fifty percent (50%) or more of the Premises to other than Affiliates and as to any assignment other than to an Affiliate and as to any assignment or sublease to an entity which shall not simultaneously therewith enter into a sublease or assignment of space in Building 149, then, notwithstanding anything to the contrary in this Lease, Tenant understands and specifically agrees that Landlord may,

in its sole discretion, withhold its consent to any such proposed subletting or assignment. Any assignment of this Lease or subletting of the whole or any part of the Premises (other than as permitted to an Affiliate as set forth below) by Tenant without Landlord's express consent shall be invalid, void and of no force or effect. In any case where Landlord shall consent to such assignment or subletting, the Tenant named herein shall remain fully liable for the obligations of Tenant hereunder, including, without limitation, the obligation to pay the Fixed Rent and other amounts provided under this Lease. Any such request shall set forth, in detail reasonably satisfactory to Landlord, the identification of the proposed assignee or sublessee, its financial condition and the terms on which the proposed assignment or subletting is to be made, including, without limitation, the rent or any other consideration to be paid in respect thereto and such request shall be treated as Tenant's warranty in respect of the information submitted therewith.

It shall be a condition of the validity of any assignment or subletting (whether or not to an Affiliate) that the assignee or sublessee agrees directly with Landlord, in form reasonably satisfactory to Landlord, to be bound by all the obligations of Tenant hereunder, including, without limitation, the obligation to pay Fixed Rent, additional rent and other amounts provided for under this Lease and that any assignment or sublease shall contain absolute covenants

against any further assignment and subletting without Landlord's prior express written consent, under the terms set forth in this Section 5.1. Any such assignment or subletting shall not relieve the Tenant named herein of any of the obligations of Tenant hereunder, and Tenant shall remain fully liable therefor. In no event, however, shall Tenant assign this Lease or sublet the whole or any part of the Premises to a proposed assignee or sublessee which has been judicially declared bankrupt or insolvent according to law, or with respect to which an assignment has been made of property for the benefit of creditors, or with respect to which a receiver, guardian, conservator, trustee in involuntary bankruptcy or similar officer has been appointed to take charge of all or any substantial part of the proposed assignee's or sublessee's property by a court of competent jurisdiction, or with respect to which a petition has been filed for reorganization under any provisions of the Bankruptcy Code now or hereafter enacted, or if a proposed assignee or sublessee has filed a petition for such reorganization, or for arrangements under any provisions of the Bankruptcy Code now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for the payment of debts.

Without limitation of the rights of Landlord hereunder in respect thereto, except with respect to an Affiliate of Tenant, if there is any assignment of this Lease by Tenant,

for consideration, or a subletting of the whole of the Premises by Tenant at a rent which exceeds the rent payable hereunder by Tenant, or if there is a subletting of a portion of the Premises by Tenant at a rent in excess of the subleased portion's pro rata share of the rent payable hereunder by Tenant, then Tenant shall pay to Landlord, as additional rent, forthwith upon Tenant's receipt of the consideration (or the cash equivalent thereof) therefor, in the case of an assignment, and, upon Tenant's receipt of the rent, in the case of a subletting, one-half (1/2) of, as the case may be, the amount of the consideration, in the case of an assignment, or the excess rent, in the case of a subletting after deduction of reasonable expenses incurred for real estate brokerage commissions and legal fees expended in connection therewith. The provisions of this paragraph shall apply to each and every assignment of the Lease and each and every subletting of all or a portion of the Premises, to other than an Affiliate, in each case on the terms and conditions set forth herein. For the purposes of this Section 5.1, the term "rent" shall mean all fixed rent or other payments and/or consideration payable by one party to another for the use and occupancy of all or a portion of the Premises.

The provisions of this Section 5.1 shall not, however, be applicable to an assignment of this Lease or a subletting of all or a portion of the Premises by Tenant to an Affiliate

of Tenant. An Affiliate of Tenant shall be any corporation that is Tenant's parent, subsidiary, affiliate or controlled corporation or corporations, or any successor to Tenant by consolidation, merger or other corporate action, or any corporation, partnership or other business entity that controls or is controlled by, or is under common control with, Tenant or another Affiliate of Tenant. For the purpose of this definition, the word "control" (including "controlled by" and "under common control with") as used with respect to any corporation, partnership or other business entity, shall mean the power to direct or cause the direction of the management and policy of such corporation, partnership or other business entity, whether through the ownership of voting securities or by contract. It shall be a condition of the validity of any assignment or subletting to an Affiliate that such Affiliate agree directly with Landlord to be bound by all of the obligations of Tenant hereunder, including, without limitation, the obligation to pay the Fixed Rent and other amounts provided for under this Lease and the covenant to use the Premises only for the purposes specifically permitted under this Lease, and shall also so agree to be bound by an absolute covenant against further assignment or subletting as otherwise required in the second paragraph of this Section 5.1; but such assignment shall not relieve the Tenant herein named of any of its obligations hereunder, and Tenant shall remain fully liable therefor. The continuing validity of any such assignment or subletting shall also be

contingent upon such Affiliate remaining an Affiliate during the term of such assignment or subletting.

ARTICLE 6

DELIVERY OF PREMISES AND RESPONSIBILITY FOR REPAIRS AND CONDITION OF PREMISES

6.1 DELIVERY OF POSSESSION OF PREMISES. The Premises are being leased in their condition, "as is", without representation of warranty by Landlord. Tenant acknowledges that it has inspected the Premises and the Building and has found the same satisfactory.

If Tenant shall terminate the Building 149 Lease pursuant to Section 6.2(d) of such Lease, then this Lease shall thereupon terminate as of the date on which the Building 149 Lease shall be so terminated.

6.2 REPAIRS TO BE MADE BY LANDLORD. Except as otherwise provided in this Lease, Landlord agrees to keep the common areas of the Buildings (including the foundation, structural elements, roofing and windows and mechanical and electrical systems), insofar as they affect the Premises in good order, condition and repair, reasonable use and wear thereof and damage by fire or other casualty or as a consequence of the exercise of the power of eminent domain excepted.

Landlord shall in no event be responsible to Tenant for any condition in the Premises or the Building caused by any act or neglect of Tenant or any contractor, agent, employee or invitee of Tenant, or anyone claiming by, through or under Tenant.

Landlord shall never be liable for any failure to make repairs which, under the provisions of this Section 6.2 or elsewhere in this Lease, Landlord has undertaken to make unless: (a) Tenant has given notice to Landlord of the need to make such repairs as a result of a condition in the Building or in the Premises requiring any repair for which Landlord is responsible or Landlord has independent knowledge of such need; and (b) Landlord has failed to commence to make and diligently prosecute completion of such repairs within a reasonable time in the circumstances after receipt of such notice (or independent knowledge) if such repairs are, in fact, necessary.

6.3 TENANT'S AGREEMENT. Tenant agrees that Tenant will keep the Premises and every part thereof (except to the extent of Landlord's obligations pursuant to Section 6.2) a good order and repair and in a neat and clean condition throughout the Lease Term, excepting only damage by fire or other casualty or as a consequence of the exercise of the power of eminent domain, and subject to reasonable wear and

tear, and shall surrender the Premises, at the expiration or other termination of the term, in such condition. Without limitation, Tenant shall maintain and use the Premises in accordance with all applicable laws, ordinances, governmental rules and regulations, directions and orders of officers of governmental agencies having or claiming to have jurisdiction and in accordance with the requirements of Landlord's and/or Tenant's insurers (provided such requirements do not materially interfere with the Use), and shall, at Tenant's own expense, obtain and maintain in effect all permits, licenses and the like required by applicable law. Tenant shall not permit or commit any waste, and Tenant shall be responsible for the cost of repairs which may be made necessary by reason of damage to any areas in the Building, including, without limitation, the Premises, by Tenant, Tenant's contractors or Tenant's agents, employees or invitees, or anyone claiming by, through or under Tenant. Landlord may replace as needed any bulbs and ballasts in the Premises during the Lease Term at Tenant's cost and expense, or Landlord may require Tenant to replace the same, at Tenant's cost and expense.

If repairs are required to be made by Tenant pursuant to the terms hereof, Landlord may demand that Tenant make the same forthwith, and if Tenant refuses or neglects to commence such repairs and complete the same with reasonable dispatch after such demand but only if, in Landlord's reasonable

judgment Tenant's failure to commence or complete the same as aforesaid may pose an unreasonable risk to which Landlord may therefor be exposed, Landlord may (but shall not be required to do so) make or cause such repairs to be made, at Tenant's sole cost and expense, and shall not be responsible to Tenant for any loss or damage that may accrue to Tenant's stock or business by reason thereof, except to the extent resulting from the gross negligence of Landlord, its agents or employees.

Any vehicle, trade furniture or equipment or other personal property which shall remain in the Building or on the Premises after the expiration or termination of the Lease Term shall be deemed conclusively to have been abandoned, and either may be retained by Landlord as its property or may be disposed of in such manner as Landlord may see fit, at Tenant's sole cost and expense.

6.4 FLOOR LOAD; HEAVY MACHINERY. Tenant shall not place a load upon any floor in the Premises exceeding the lesser of (a) the floor load per square foot of area which such floor was designed to carry as certified by Landlord's architect and (b) the floor load per square foot of area which is allowed by law. Landlord reserves the right to prescribe the weight and position of all vehicles and other items and shall be maintained by Tenant at Tenant's expense

in settings sufficient, in Landlord's judgment, to absorb and prevent vibration, noise and annoyance.

ARTICLE 7

SERVICES TO BE FURNISHED BY LANDLORD AND UTILITY CHARGES

7.1 LANDLORD'S SERVICES. Landlord covenants during the Lease Term during Normal Building Operating Hours:

- (1) to furnish non-exclusive passenger elevator service;
- (2) to furnish, through Landlord's employees or independent contractors, cleaning of the Building, security services and Building management, all in a fashion generally commensurate with other similar operations in the metropolitan Boston area; and
- (3) to furnish, through Landlord's employees or independent contractors, provided the same may be reasonable and conveniently provided by Landlord, additional Building operation services upon reasonable advance request of Tenant at rates from time to time established by Landlord to be paid by Tenant. Tenant hereby agrees to pay the cost of such services

as additional rent upon demand by Landlord (which rates shall be uniform throughout the Building and shall be comparable with rates for similar services, if such exist, at similar structures in the downtown Boston area).

7.2 ENERGY CONSERVATION. Notwithstanding anything to the contrary in this Article 7 or elsewhere in this Lease, Landlord shall have the right to institute such policies, programs and measures as may be necessary or desirable, in Landlord's discretion, for the conservation and/or preservation of energy or energy related services, or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary.

ARTICLE 8

INDEMNITY AND PUBLIC LIABILITY INSURANCE

8.1 TENANT'S INDEMNITY. To the maximum extent this agreement may be made effective according to law, Tenant agrees to indemnify and save harmless Landlord from and against, and to defend with counsel approved by Landlord, all claims of whatever nature arising from any act, omission or negligence of Tenant, or Tenant's contractors, licensees, invitees, agents, servants or employees, or arising from any accident, injury or damage whatsoever caused to any person,

or to the property of any person, occurring within the Premises after the first entry by Tenant on the Premises, and until the end of the Lease Term and thereafter, so long as Tenant is in occupancy of any part of the Premises, or arising from any accident, injury or damage occurring outside of the Premises, where such accident, damage or injury results or is claimed to have resulted from an act or omission on the part of Tenant or Tenant's agents, employees, independent contractors or invitees.

This indemnity and hold harmless agreement shall include indemnity against all costs, expenses and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

8.2 PUBLIC LIABILITY INSURANCE. Tenant agrees to maintain in full force and effect from the date on which Tenant first enters the Premises for any reason, throughout the Lease Term, and thereafter so long as Tenant is in occupancy of any part of the Premises, a policy of Comprehensive General Liability insurance in accordance with the broadest form of such coverage as is available from time to time in The Commonwealth of Massachusetts. The minimum limits of liability of such insurance shall be \$____ million per occurrence, Bodily Injury Liability (including death), and \$____ million per occurrence, Property Damage Liability, or shall be for such higher limits, if directed by Landlord,

as are customarily carried in that area in which the Building is located upon property similar to the Building.

Tenant further agrees to maintain a Workers' Compensation and Employers' Liability Insurance policy. The limit of liability as respects Employers' Liability coverage shall be no less than the greater of (a) statutory limits therefor and (b) \$100,000 per accident.

Except for Workers' Compensation and Employers' Liability coverage, Tenant agrees that Landlord (and such other persons as are in privity of estate with Landlord as may be set out in notice from time to time, specifically including, without limitation, the holder(s) of any mortgage(s) or the Lessor under any ground lease entitled to notice pursuant to Section 12.4) shall be named as additional insureds. Further, all policies shall be noncancellable and nonamendable with respect to Landlord and Landlord's said designees without 30 days' prior written notice to Landlord. A duplicate original or a certificate of insurance evidencing the above agreements shall be delivered to Landlord upon the execution of this Lease.

8.3 TENANT'S RISK. To the maximum extent this agreement may be made effective according to law, Tenant agrees to use and occupy the Premises and to use such other portions of the Building as Tenant is herein given the right to use at

Tenant's own risk; and Landlord shall have no responsibility or liability for any loss of or damage to the fixtures which are personal property of Tenant or any other personal property of Tenant for any reason whatsoever. Tenant shall carry "all-risk" property insurance covering all automobiles and other items which may be located in the Premises from time to time. The provisions of this Section shall be applicable from and after the execution of this Lease and until the end of the Lease Term, and during such further period as Tenant may use or be in occupancy of any part of the Premises or of the Building.

8.4 INJURY CAUSED BY THIRD PARTIES. To the maximum extent this agreement may be made effective according to law, Tenant agrees that Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying adjoining premises or any part of the Building adjacent to or connecting with the Premises or any part of the Building, or otherwise.

ARTICLE 9

LANDLORD'S ACCESS TO PREMISES

9.1 LANDLORD'S RIGHT OF ACCESS. Landlord shall have the right to enter the Premises at all reasonable business hours and after normal business hours for the purpose of

inspecting or making repairs to the same, and Landlord shall also have the right to make access available at all reasonable hours to prospective or existing mortgagees, ground lessors or purchasers of any part of the Building.

9.2 EXHIBITION OF SPACE TO PROSPECTIVE TENANTS. For a period of twelve (12) months prior to the expiration of the Lease Term, Landlord may have reasonable access to the Premises at all reasonable hours for the purpose of exhibiting the same to prospective tenants, and may post suitable notice on the Premises advertising the same for rent.

ARTICLE 10

FIRE, EMINENT DOMAIN, ETC.

10.1 ABATEMENT OF RENT. If the Premises shall be damaged by fire or casualty, the Fixed Rent shall abate or be reduced proportionately by the number of Parking Spaces included in the Premises immediately prior to such fire or casualty which Tenant shall be unable to use (the Fixed Rent per Parking Space, however, remaining unchanged), but such abatement or reduction shall end if and when Landlord shall have substantially restored the Premises to substantially the condition which the Premises were in prior to such damage. In no event shall Landlord be obligated in connection with the restoration of the Premises, as aforesaid, to expend an amount in excess of the net proceeds of insurance recovered

with respect thereto, it being agreed that Landlord shall carry insurance for fire and extended coverage in an amount equal to not less than Landlord's obligations with respect to fire and extended coverage insurance under the Ground Lease. In the event the Premises shall be damaged by fire or other casualty resulting from the act or neglect of Tenant, its agents, contractors, employees or invitees, and this Lease shall not be terminated by Landlord as a result of such damage, Tenant shall not be released from any of its obligations hereunder including, without limitation, its duty to pay the Fixed Rent without abatement or reduction, except to the extent (and for the period of time) that Landlord's rental interruption insurance (if then carried by Landlord) shall compensate Landlord for loss of rent payable by Tenant hereunder.

If any part of the Building shall be taken by any exercise of the power of eminent domain, as a result of which there is material interference with the operation of Tenant's use of the Premises, then the Fixed Rent

shall be reduced proportionately according to the number of Parking Spaces so taken (the Fixed Rent per Parking Space, however, remaining unchanged).

10.2 LANDLORD'S RIGHT OF TERMINATION. If the Premises or the Building shall be substantially damaged by fire or casualty (the term "substantially damaged" meaning damage of

such a character that the same cannot, in the ordinary course, reasonably be expected to be repaired within six (6) months from the time that repair work would commence), or any part of the Building or the Lot is taken by an exercise of the right of eminent domain, then Landlord shall have the right to terminate this Lease (even if the Landlord's entire interest in the Premises may have been divested) by giving notice of Landlord's election so to do, whereupon this Lease shall terminate as of the date of such notice with the same force and effect as if such date were the date originally established as the expiration date hereof. If, however, the Premises or the Building shall not have been substantially damaged as aforesaid or the Premises or the Building have been substantially damaged as aforesaid or any part of the Building or Lot shall be taken by an exercise or the right of eminent domain, and Landlord shall elect not to terminate this Lease within ninety (90) days after the event giving rise to such right of termination shall have occurred, Landlord shall use due diligence to repair and restore the Premises and the Building, as necessary, to proper condition for Tenant's use and occupation except that, (i) Landlord shall only be required to repair or restore the same to the condition required by the Ground Lease and (ii) in performing such work of restoration, Landlord shall not be obligated to spend more than the net proceeds of any insurance recovered with respect to such damage or destruction or any taking award recovered with respect thereto, as the case may be, it

being agreed that Landlord shall use best efforts to obtain all proceeds available from the holder thereof (i.e. Landlord's mortgage or insurer or the BRA) and (iii) Tenant and not Landlord shall pay for all improvements made by Tenant in the Premises.

Notwithstanding any of the foregoing to the contrary, Tenant may terminate this Lease following a fire or casualty not resulting from the act or neglect of Tenant, its agents, contractors, employees, or invitees if (i) in Landlord's reasonable estimation, the damages caused by such fire or casualty cannot reasonably be expected to be completed within eighteen (18) months from the time that repair work would commence or (ii) such fire or casualty occurs in the last year of any Term of this Lease.

10.3 AWARD. Landlord shall have and hereby reserves and accepts, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Building, the Lot and the leasehold interest hereby created, and to compensation accrued or hereafter to accrue by reason of such taking, damage or destruction, as aforesaid, and by way of confirming the foregoing, Tenant hereby grants and assigns, and covenants with Landlord to grant and assign to Landlord all rights to such damages or compensation. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings a claim for the

value of any Tenant's fixtures installed in the Premises by Tenant at Tenant's expense and for relocation expenses, provided that such action shall not affect the amount of compensation otherwise recoverable by Landlord from the taking authority.

Notwithstanding the foregoing to the contrary, Landlord shall reimburse Tenant, promptly following its receipt of such damages and compensation, the product of (a) a fraction, the numerator of which shall be Tenant's unamortized costs of improvements installed in the Premises in compliance with this Lease at Tenant's expense and the denominator of which shall be the fair market value of the Building multiplied by (b) the award received by Landlord.

ARTICLE 11

LANDLORD'S REMEDIES

11.1 EVENTS OF DEFAULT. Any one of the following shall be deemed to be an "Event of Default":

- (A) Failure on the part of Tenant to pay Fixed Rent or other charges for which provision is made herein on or before the date on which the same become due and payable and such failure continues for ten (10) business days after Landlord has

sent to Tenant notice of such default, provided the same is received in the ordinary course.

- (B) With respect to a non-monetary default under this Lease, failure of Tenant to cure the same within thirty (30) days following notice from Landlord to Tenant of such default or, if such default cannot reasonably be cured within the thirty (30) day period, the failure of Tenant to commence such cure within such period and thereafter diligently to prosecute it to completion.

- (C) The commencement of any of the following proceedings, with such proceeding not being dismissed within sixty (60) days after it has begun: (i) the estate hereby created being taken on execution or by other process of law; (ii) Tenant being judicially declared bankrupt or insolvent according to law; (iii) an assignment being made of the property of Tenant for the benefit of creditors; (iv) a receiver, guardian conservator, trustee in involuntary bankruptcy or other

similar officer being appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction; or (v) a petition being filed for the reorganization of Tenant under any provisions of the Bankruptcy Act now or hereafter enacted.

(D) Tenant filing a petition for reorganization or for rearrangements under any provisions of the Bankruptcy Act now or hereafter enacted, and providing a plan for a debtor to settle, satisfy or to extend the time for the payment of debts.

(E) Execution by Tenant of an instrument purporting to assign Tenant's interest under this Lease or sublet the whole or a portion of the Premises to a third party without Tenant having first obtained Landlord's prior express consent to said assignment or subletting where such consent is required pursuant to the other provisions of this Lease.

(F) An Event of Default shall occur under the Building 149 Lease.

(G) An Event of Default of the kind set forth in clauses (A), (B) or (F) above shall occur and if either (x) Tenant shall cure such Default within the applicable grace period or (y) Landlord shall, in its sole discretion, permit Tenant to cure such Default after the applicable grace period has expired, and an event which would constitute a similar Default after the applicable grace period shall occur more than twice within the next 365 days, whether or not such similar Default is cured within the applicable grace period.

11.2 REMEDIES. Should any Event of Default occur then, notwithstanding any license of any former breach of covenant or waiver of the benefit hereof or consent in a former instance, Landlord lawfully may, in addition to any remedies otherwise available to Landlord, immediately or at any time thereafter, after having given Tenant thirty (30) days' prior written notice of its intention to exercise its rights under this Section 11.2 (except in the case of an emergency, in which event the Landlord shall not be required to give any such notice), enter into and upon the Premises or any part thereof in the name of the whole and repossess the same as of

Landlord's former estate, and expel Tenant and those claiming by, through or under it and remove its or their effects (forcibly if necessary) without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant and/or Landlord may send notice to Tenant terminating the Term of this Lease; and upon the first to occur of: (i) entry as aforesaid; or (ii) the fifth (5th) day following the mailing of such notice of termination, the Term of this Lease shall terminate, but Tenant shall remain liable for all damages as provided for herein.

Tenant covenants and agrees, notwithstanding any termination of this Lease as aforesaid or any entry or re-entry by Landlord, whether by summary proceedings, termination, or otherwise, to pay and be liable for on the days originally fixed herein for the payment thereof, amounts equal to the several installments of Fixed Rent and other charges reserved as they would become due under the terms of this Lease if this Lease had not been terminated or if Landlord had not entered or re-entered, as aforesaid, and whether the Premises be relet or remain vacant, in whole or in part, or for a period less than the remainder of the Term, or for the whole thereof; but in the event the Premises be relet by Landlord, Tenant shall be entitled to a credit in the net amount of rent received by Landlord in reletting, after deduction of all expenses incurred in reletting the

Premises (including, without limitation, remodeling costs, brokerage fees, and the like), and in collecting the rent in connection therewith. It is specifically understood and agreed that Landlord shall be entitled to take into account in connection with any reletting of the Premises all relevant factors which would be taken into account by a sophisticated developer in securing a replacement tenant for the Premises, such as, but not limited to, the financial responsibility of any such replacement tenant; and Tenant hereby waives, to the extent permitted by applicable law, any obligation Landlord may have to mitigate Tenant's damages.

As an alternative, at the election of Landlord, Tenant will upon such termination pay to Landlord, as damages, such a sum as at the time of such termination represents the amount of the excess, if any, of the then value of the total Fixed Rent and other benefits which would have accrued to Landlord under this Lease for the remainder of the Lease Term if the lease terms had been fully complied with by Tenant over and above the then cash rental value (in advance) of the Premises for the balance of the Term.

In the event of any breach by Tenant of any of the agreements, terms, covenants or conditions contained in this Lease, Landlord shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any right or remedy allowed at law or in equity or by statute or

otherwise as though reentry, summary proceedings, and other remedies were not provided for in this Lease.

Each right and remedy of Landlord provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of monies which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Lease, and furthermore if any payment of Fixed Rent or any other payment payable hereunder by Tenant to Landlord shall not be paid when due, then in either case all such sums shall bear interest from the date paid by Landlord (or the date when the same was payable, as applicable) until the date paid by Tenant at the lesser of (x) four (4) percent over the so-called base rate in effect

from time to time at the First National Bank of Boston, compounded monthly, or (y) the highest rate of interest which Landlord may charge to Tenant without violating any applicable law. Such interest shall constitute additional rent payable hereunder and be payable upon demand therefor by Landlord.

Without limiting any of Landlord's rights and remedies hereunder, and in addition to all other amounts Tenant is otherwise obligated to pay, it is expressly agreed that Landlord shall be entitled to recover from Tenant all costs and expenses, including, reasonable attorneys' fees incurred by Landlord in enforcing this Lease from and after Tenant's default.

11.3 LANDLORD'S DEFAULT. Landlord shall in no event be in default in the performance of any of Landlord's obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days, or such additional time as is reasonably required to correct any such default, after notice by Tenant to Landlord properly specifying wherein Landlord has failed to perform any such obligation. Notwithstanding the provisions of the foregoing sentence, however, if a repair required to be performed by

Landlord hereunder shall be of an emergency nature, Landlord shall perform such repairs within a period of time which shall be reasonable in the circumstances.

Tenant further agrees that if Landlord shall have failed to cure such default within thirty (30) days of such notice to Landlord (or if such default cannot be cured within said time, then within such additional time as may be necessary if within thirty days Landlord has commenced and is diligently pursuing the remedies necessary to cure such default), then the holders of any mortgage(s) or the lessor under any ground lease entitled to notice pursuant to Section 12.4 shall each have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if within such thirty (30) days any such holder or lessor has commenced and is diligently pursuing the remedies necessary to cure such default (including but not limited to commencement of foreclosure proceedings, if necessary to effect such cure), in which event this Lease shall not be terminated while such remedies are being so diligently pursued.

ARTICLE 12

MISCELLANEOUS PROVISIONS

12.1 EXTRA HAZARDOUS USE. Tenant covenants and agrees that Tenant will not do or permit anything to be done in or upon the Premises, or bring in anything or keep anything

therein which shall increase the rate of insurance on the Premises or on the Building above the standard rate applicable to premises being occupied for the Use; and Tenant further agrees that in the event that Tenant shall do any of the foregoing, Tenant will promptly pay to Landlord, on demand, any such increase resulting therefrom which shall be due and payable as additional rent hereunder.

12.2 WAIVER. Failure on the part of Landlord or Tenant to complain of any action or nonaction on the part of the other, no matter how long the same may continue, shall never be a waiver by Tenant or Landlord, respectively, of any of the other's rights hereunder. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval of Landlord or Tenant to or of any action by the other requiring such consent or approval shall not be construed to waive or render unnecessary Landlord's or Tenant's consent or approval to or of any subsequent similar act by the other.

No payment by Tenant or acceptance by Landlord of a lesser amount than shall be due from Tenant to Landlord shall be treated otherwise than as a payment on account. The ac-

ceptance by Landlord of a check for a lesser amount with an endorsement or statement thereon, or upon any letter accompanying such check that such lesser amount is payment in full, shall be given no effect, and Landlord may accept such check without prejudice to any other rights or remedies which Landlord may have against Tenant. In no event shall Tenant ever be entitled to receive interest upon, or any payments on account of earnings or profits derived from any payments hereunder by Tenant to Landlord.

12.3 COVENANT OF QUIET ENJOYMENT; LIMITATION OF LANDLORD'S LIABILITY; RIGHT TO MAKE REPAIRS. Tenant, subject to the terms and provisions of this Lease, upon payment of the Fixed Rent and other charges due hereunder and the observing, keeping and performing of all of the terms and provisions of this Lease on Tenant's part to be observed, kept and performed, shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Premises during the Term hereof, without hindrance or ejection by any persons lawfully claiming under Landlord to have title to the Premises superior to Tenant; the foregoing covenant of quiet enjoyment is in lieu of any other covenant, expressed or implied; and it is understood and agreed that this covenant and any and all other covenants of Landlord contained in this Lease shall be binding upon Landlord and Landlord's successors only with respect to breaches occurring during Landlord's and Landlord's successors respective ownership of Landlord's

interest hereunder. Further, Tenant specifically agrees to look solely to Landlord's then equity interest in the Building and Lot at the time owned, or in which Landlord holds an interest as ground lessee, for recovery of any judgment from Landlord; it being specifically agreed that Landlord (original or successor) shall never be personally liable for any such judgment, or for the payment of any monetary obligation to Tenant. The provision contained in the foregoing sentence is not intended to, and shall not, limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or Landlord's successors in interest, or any action not involving the personal liability of Landlord (original or successor) to respond in monetary damages from Landlord's assets other than Landlord's equity interest aforesaid in the Building and Lot. With respect to any services to be furnished by Landlord to Tenant, or obligations to be performed by Landlord hereunder, Landlord shall in no event be liable for failure to furnish or perform the same when (and the date for performance of the same shall be postponed so long as Landlord is) prevented from doing so by strike, lockout, breakdown, accident, fire or other casualty order or regulation of or by any governmental authority, or failure of supply, or inability by the exercise of reasonable diligence to obtain supplies, parts or employees necessary to furnish such services, or perform such obligations or because of war or other emergency, or for any cause beyond Landlord's reasonable

control, or for any cause due to any act or neglect of Tenant or Tenant's servants, agents, employees, licensees, invitees or any person claiming by, through or under Tenant. In no event shall Landlord ever be liable to Tenant for any indirect, special or consequential damages suffered by Tenant from whatever cause. With respect to any repairs or restoration which are required or permitted to be made by Landlord, the same may be made during normal business hours and shall not constitute an actual or constructive eviction (partial or total) or a breach of the covenant of quiet enjoyment (express or implied); and Landlord shall have no liability for damages to Tenant and there shall be no abatement of rent on account of any Parking Space(s) being temporarily rendered unusable. Landlord agrees, however, to use reasonable efforts to minimize, to the extent practicable, any affect on Tenant's ability to use any Parking Space(s).

12.4 NOTICE TO MORTGAGEE AND GROUND LESSOR. Only after receiving notice from any person, firm or other entity that it holds a mortgage which includes the Premises as part of the mortgaged premises, or that it is the ground lessor under a lease with Landlord, as ground lessee, which includes the Premises as part of the demised premises, no notice from Tenant to Landlord shall be effective unless and until a copy of the same is given to such holder or ground lessor, and the curing of any of Landlord's defaults by such holder or ground

lessor shall be treated as performance by Landlord. For the purposes of this Section 12.4, and Section 12.5 and Section 12.14, the term "mortgage" includes a mortgage on a leasehold interest of Landlord (but not one on Tenant's leasehold interest).

12.5 ASSIGNMENT OF RENTS. With reference to any assignment by Landlord of Landlord's interest in this Lease, or the rents payable hereunder, conditional in nature or otherwise, which assignment is made to the holder of a mortgage or ground lease on property which includes the Premises, Tenant agrees:

(a) that the execution thereof by Landlord, and the acceptance thereof by the holder of such mortgage, or the ground lessor, shall never be treated as an assumption by such holder or ground lessor of any of the obligations of Landlord hereunder, unless such holder or ground lessor shall, by notice sent to Tenant, specifically otherwise elect; and

(b) that, except as aforesaid, such holder or ground lessor shall be treated as having assumed Landlord's obligations hereunder only upon foreclosure of such holder's mortgage and the taking of possession of the Premises, or in the case of a ground lessor, the assumption of Landlord's

position hereunder by such ground lessor. In no event shall the acquisition of title to or leasehold interest of the Buildings and the land on which the same is located by a purchaser which, simultaneously therewith, leases the entire Building or such land back to the seller thereof, be treated as an assumption by operation of law or otherwise of Landlord's obligations hereunder, but Tenant shall look solely to such seller-lessee, and its successors from time to time in title, for performance of Landlord's obligations hereunder. In any such event, this Lease shall be subject and subordinate to the lease to such seller-lessee. For all purposes such seller-lessee, and its successors in title, shall be the Landlord hereunder unless and until Landlord's position shall have been assumed by such purchaser lessor.

12.6 MECHANIC'S LIENS. Tenant agrees immediately to discharge (either by payment or by the filing of the necessary bond, or otherwise) any mechanics', materialmen's or other lien against the Premises and/or Landlord's interest therein, which arise out of any payment due for any labor, services, materials, supplies or equipment alleged to have been furnished to or for Tenant in, upon or about the Premises.

12.7 NO BROKERAGE. Tenant warrants and represents that Tenant has not dealt with any broker other than the Broker

named in Section 1.2 hereof, in connection with the consummation of this Lease, and in the event any claim is made against the Landlord relative to dealings with brokers other than the Broker named in Section 1.2, Tenant shall defend the claim against Landlord with counsel of Landlord's selection and save harmless and indemnify Landlord on account of loss, cost or damage which may arise by reason of any such claim.

12.8 INVALIDITY OF PARTICULAR PROVISIONS. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

12.9 PROVISIONS BINDING, ETC. Except as herein otherwise provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant and, if Tenant shall be an individual, upon and to his heirs, executors, administrators, successors and assigns. If two or more persons are named as Tenant herein, each of such persons shall be jointly and severally liable for the obligations of

the Tenant hereunder, and Landlord may proceed against any one without first having commenced proceedings against any other of them. Each term and each provision of this Lease to be performed by Tenant shall be construed to be both a covenant and a condition. The reference contained to successors and assigns of Tenant is not intended to constitute a consent to assignment by Tenant, but has reference only to those instances in which Landlord may later give consent to a particular assignment as required by those provisions of Article 5 hereof.

12.10 RECORDING. Tenant agrees not to record the within Lease, but each party hereto agrees, on the request of the other, to execute a so-called memorandum of lease or short form lease in form recordable and complying with applicable law and reasonably satisfactory to Landlord's attorneys. In no event shall such document set forth the rent or other charges payable by Tenant under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease and is not intended to vary the terms and conditions of this Lease.

12.11 NOTICES. Whenever, by the terms of this Lease, notice shall or may be given either to Landlord or to Tenant, such notice shall be in writing and shall be delivered in hand or sent by registered or certified mail, postage prepaid:

If intended for Landlord, addressed to Landlord at the address set forth in Section 1.2 of this Lease (or to such other address or addresses as may from time to time hereafter be designated by Landlord by like notice) and a copy to Landlord, c/o _____.

If intended for Tenant, addressed to Tenant at the address set forth in Section 1.2 of this Lease, Attention: Ernest Haddad, Esq., Secretary and General Counsel (or to such other address or addresses as may from time to time hereafter be designated by Tenant by like notice) and a copy to Tenant, c/o _____.

All such notices shall be effective when delivered in hand, or when deposited in the United States mail within the continental United States provided that the same are received in the ordinary course at the address to which the same were sent.

Whenever, by the terms of this Lease, whether pursuant to Section 4.3 or otherwise, Tenant shall be obliged to obtain consent or approval of the BRA or a permit or authorization from any other governmental agency such consent, approval, permit or authorization shall be undertaken by Tenant at its sole cost and expense, provided,

however, that Landlord agrees to join in any application therefor whenever such is necessary, but at Tenant's sole cost and expense. All written communications to the BRA shall comply with Article 25 of the Ground Lease.

12.12 WHEN LEASE BECOMES BINDING. Employees or agents of Landlord have no authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. The submission of this document for examination and negotiation does not constitute an offer to lease, or a reservation of, or option for, the Premises, and this document shall become effective and binding only upon the execution and delivery here of by both Landlord and Tenant. All negotiations, considerations, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by written agreement between Landlord and Tenant, and no act or omission of any employee or agent of Landlord shall alter, change or modify any of the provisions hereof.

12.13 PARAGRAPH HEADINGS. The paragraph headings throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

12.14 RIGHTS OF MORTGAGEE AND GROUND LESSOR. It is understood and agreed that the rights and interests of Tenant under this Lease shall be subject and subordinate to the Ground Lease, and to any mortgages or deeds of trust that, are now or may hereafter be placed upon the Building and/or the Lot or Landlord's leasehold interest therein, and to any and all advances or advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacements and extensions thereof, if the mortgagee or trustee named in said mortgages or deeds of trust (or the respective successor(s)) shall elect by notice delivered to Tenant to subject and subordinate the rights and interest of Tenant under this Lease to the lien of its mortgage or deed of trust; it is further agreed that any mortgagee or trustee may elect to give the rights and interest of Tenant under this Lease priority over the lien of its mortgage or deed of trust but that to the extent that either shall not so elect, Landlord shall deliver to Tenant an agreement (i) from the BRA to the effect that Tenant's rights hereunder shall be recognized upon the termination of the Ground Lease, provided Tenant shall simultaneously attorn to the BRA in form satisfactory to the BRA and (ii) from the holder of any mortgage to the effect that Tenant's rights hereunder (subject to qualifications of the type set forth in clauses (a) through (g) of the immediately following paragraph) shall be recognized at foreclosure or in the event of a deed in lieu of foreclosure, so long as no Event of Default shall

exist. In the event of either such election, and upon notification by such mortgagee or trustee to Tenant to that effect, the rights and interest of Tenant under this Lease shall be deemed to be subordinate to, or to have priority over, as the case may be, the lien of said mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said mortgage or deed of trust. Tenant shall execute and deliver whatever instruments may be reasonably required in confirmation of the foregoing within ten (10) days after demand in writing, but the provisions of this Section shall be self-operative upon such election and demand and shall not require any further instrument to give effect to the provision hereof.

Any lease to which this Lease is, at the time referred to, subject and subordinate is herein called "Superior Lease" and the lessor of a Superior Lease or its successor in interest, at the time referred to, is herein called "Superior Lessor"; and any mortgage or deed of trust to which this lease is, at the time referred to, subject and subordinate, is herein called "Superior Mortgage" and the holder or trustee of a Superior Mortgage is herein called "Superior Mortgagee". If any Superior Lessor or Superior Mortgagee or the nominee or designee of any Superior Lessor or Superior Mortgagee shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, or otherwise (the occurrence

of which is hereinafter a "Succession"), then at the request of such party so succeeding to Landlord's rights (herein called "Successor Landlord") and upon such Successor Landlord's written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such Successor Landlord as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that such Successor Landlord may reasonably request to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between the successor Landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease, except that the Successor Landlord (unless formerly the landlord under this Lease or its nominee or designee) shall not be (a) liable in any way to Tenant for any act or omission, neglect or default on the part of Landlord under this Lease, (b) responsible for any monies owing by or on deposit with Landlord to the credit of Tenant, (c) subject to any counterclaim or setoff which theretofore accrued to Tenant against Landlord, (d) bound by any modification of this Lease subsequent to such Superior Lease or Mortgage, or by any previous prepayment of Fixed Rent for more than one (1) month, which was not approved in writing by the Superior Lessor or the Superior Mortgagee thereto, (e) liable to the Tenant beyond the Successor Landlord's interest in the Property and the rents, income, receipts, revenues, issues and profits issuing from such Property, (f) responsible for the performance of any work to

be done by the Landlord under this Lease to render the Premises ready for occupancy by the Tenant, or (g) required to remove any person occupying the Premises or any part thereof, except if such person claims by, through or under the Successor Landlord.

However, until the Successor Landlord shall require such attornment, or shall otherwise elect, Tenant shall pay to such Successor Landlord, from and after Succession, the Fixed Rent and additional rent and all other charges payable by the Tenant, and shall perform, for the benefit of such Successor Landlord, all obligations of Tenant to be performed under this Lease. Nothing contained in this Section shall be construed to impair any right, privilege or option of any such Successor Landlord.

12.15 STATUS REPORT. Recognizing that both parties may find it necessary to establish to third parties, such as accountants, banks, mortgagees or the like, the then current status of performance hereunder, either party, on the request of the other made from time to time, will promptly furnish to Landlord, or the holder of any mortgage encumbering the Premises, or to Tenant, as the case may be, a statement of the status of any matter pertaining to this Lease, including, without limitation, acknowledgments that (or the extent to which) each party is in compliance with its obligations under the terms of this Lease.

12.16 SURVIVAL. Except as otherwise set forth herein, any obligations of Tenant as set forth herein (including, without limitation, rental and other monetary obligations, repair obligations and obligations to indemnify Landlord), shall survive the expiration or earlier termination of this Lease, and Tenant shall immediately reimburse Landlord for any expense incurred by Landlord in curing Tenant's failure to satisfy any such obligation (notwithstanding the fact that such cure might be effected by Landlord following the expiration or earlier termination of this Lease).

12.17 HOLDING OVER. Any holding over by Tenant after the expiration of the Lease Term shall be treated as a tenancy at sufferance at twice the Fixed Rent herein provided to be paid during the last twelve (12) months of the Lease Term (prorated on a daily basis) and shall otherwise be on the terms and conditions set forth in this Lease, as far as applicable.

12.18 NON-SUBROGATION. Insofar as, and to the extent that, the following provision may be effective without invalidating or making it impossible to secure insurance coverage obtainable from responsible insurance companies doing business in the locality in which the Premises are located (even though extra premium may result therefrom): Landlord

and Tenant mutually agree that, with respect to any hazard which is covered by insurance then being carried by them, respectively, the one carrying such insurance and suffering such loss releases the other of and from any and all claims with respect to such loss; and they further mutually agree that their respective insurance companies shall have no right of subrogation against the other on account thereof. In the event that extra premium is payable by either party as a result of this provision, the other party shall reimburse the party paying such premium the amount of such extra premium. If, at the request of one party, this release and non subrogation provision is waived, then the obligation of reimbursement shall cease for such period of time as such waiver shall be effective, but nothing contained in this Section 12.18 shall derogate from or otherwise affect releases elsewhere herein contained of either party for claims.

12.19 GOVERNING LAW. This Lease shall be governed exclusively by the provisions hereof and by the laws of The Commonwealth of Massachusetts as the same may from time to time exist.

Inasmuch as it is the intention of Landlord and Tenant that this Lease NOT be a "disqualified Lease" as defined in Section 168(h)(2)(b) of the Internal Revenue Code of 1986, Landlord and Tenant agree that any provision hereof inconsistent with such intention shall be deemed modified only to the extent necessary to avoid the Lease being deemed a "disqualified Lease". *

12.20 RULES AND REGULATIONS. Tenant shall abide by reasonable rules and regulations from item to time established for the Building by Landlord, it being agreed that such rules and regulations will be established and

* Although the provisions of the immediately preceding sentence shall be self operative, Landlord and Tenant each agree to enter into an amendment to this Lease reflecting such modification, upon ten days prior notice from Landlord or Tenant to the other.

applied by Landlord in a non-discriminatory fashion, such that all rules and regulations shall be generally applicable to other tenants, of similar nature to the Tenant named herein, of the Building. Landlord agrees to use reasonable efforts to insure that any such rules and regulations are uniformly enforced, but Landlord shall not be liable to Tenant for violation of the same by any other tenant or occupant of the Building, or persons having business with them. In the event that there shall be a conflict between such rules and regulations and this Lease, the provisions of this Lease shall prevail.

WITNESS the execution hereof, under seal, in any number of counterparts, each of which counterparts shall be deemed an original for all purposes, as of the day and year first above written.

LANDLORD:

NAVY YARD PARKING ASSOCIATES/LNRC
VENTURE

By: Navy Yard Parking Associates, Inc.,
a General Partner

By: _____

By: Navy Yard Parking Associates Limited
Partnership, a General Partner

By: The Congress Group, Inc., a
General Partner

By: _____

TENANT:

THE GENERAL HOSPITAL CORPORATION

By: _____
Vice President

By: _____
Assistant Treasurer

EXHIBIT "FMV"

(DETERMINATION OF FAIR MARKET VALUE AND
FAIR MARKET RENTAL VALUE)

Whenever a determination of value is required to be made pursuant to the terms of the Lease to which this Exhibit is attached (and references hereinafter to such Lease mean and include this Exhibit), and the parties to this Lease are unable to reach agreement on such determination of value by the applicable time for agreement as provided in this Lease, such determination shall be made in accordance with the provisions hereinafter set out.

Either Landlord or the Tenant (the "Initiating Party") shall initiate the proceedings for such determination by notice to the other, and by designating one Qualified Appraiser. Within ten (10) days after receipt by the other party (the "Responding Party") of such notice, the Responding Party shall, by notice to the Initiating Party, designate the name and address of another Qualified Appraiser. If the Responding Party shall fail, neglect or refuse within said ten-day period to designate another appraiser willing so to act, the appraiser designated by the Initiating Partner shall designate the second Qualified Appraiser. The two appraisers so designated shall meet within ten (10) days after the second appraiser is designated, and, if within ten (10) days after the second appraiser is designated, the two appraisers do not agree upon the fair market value of the Property (as

defined in Section 2.3) or the fair market rental value of the Premises, as applicable, they shall appoint a third Qualified Appraiser. In the event that the two appraisers are unable to agree upon the appointment of a third Qualified Appraiser within ten (10) days after the time aforesaid, either Landlord or Tenant, on behalf of both, may then request appointment of such appraiser by a presiding judge of the Superior Court of Suffolk County, Massachusetts. In the event of a failure, refusal or inability of any appraiser to act, a new appraiser shall be appointed in his stead, which appointment shall be made in the same manner as hereinabove provided for the appointment of such appraiser so failing, refusing or being unable to act. The resulting board of appraisers shall, forthwith upon their appointment, (i) hear the parties to this Lease and their witnesses, (ii) examine the records relating to the Property or the Premises (as applicable) and such other documents and records as may, in their judgment, be necessary, and (iii) determine the fair market value of the Property or the fair market rental value of the Premises (as applicable). Within ten (10) days after the appointment of the third Qualified Appraiser, the appraisers shall make a determination of such fair market value or fair market rental value. In the event that all appraisers cannot agree upon such fair market value or fair market rental value within ten (10) days as aforesaid, each appraiser shall submit his appraisal of fair market value or fair market rental value under each of the two alternatives set forth above to the other two appraisers in writing, and such value shall be determined by calculating the

average of the two numerically closest (or, if the values are equidistant, all three) values determined by the three appraisers.

A "Qualified Appraiser" shall mean any disinterested person who is a member in good standing of the American Institute of Real Estate Appraisers (MAI) or the American Society of Real Estate Counselors (or the successor to either of such organizations) and who has had not less than ten (10) years experience in appraising, valuing, owning or managing parking garages in major metropolitan areas.

The costs, other than counsel fees, of such appraisal shall be borne equally by the parties. Upon determining such fair market value the appraisers shall promptly notify Landlord and Tenant in writing of such determination. If any party shall fail to appear at the hearings appointed by the appraisers, the appraisers may act in the absence of such party.

The determination of the board of appraisers (or the Additional Appraiser, as appropriate) made in accordance with the foregoing provisions shall be final and binding upon the parties, such determination may be entered as an award in arbitration in a court of competent jurisdiction, and judgment thereon may be entered.

EXHIBIT "A"

PLAN SHOWING BUILDING 199

EXHIBIT "B"

DESCRIPTION OF PARCEL OF LAND

EXHIBIT C

(ENCUMBRANCES ON PROPERTY)

Those certain exceptions to title identified on Schedule B of those certain leasehold owners policies of title insurance issued by Ticor Title Insurance Company, one being Policy No. 624383L, as endorsed through November 10, 1986 (with respect to Building 149), and the other being Policy No. 624551L, as endorsed through November 10, 1986 (with respect to Building 199), copies of which are attached hereto.

